



भारत राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 50] नई दिल्ली, शनिवार, फरवरी 4, 1989/माघ 15, 1910
No. 50] NEW DELHI, SATURDAY, FEBRUARY 4, 1989/MAGHA 15, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India other than
the Ministry of Defence)

कामिक, लोक शिकायत और पेंशन मंत्रालय

(पेंशन और पेंशनभोगी कल्याण विभाग)

नई दिल्ली, 9 जनवरी, 1989

का.प्रा. 254.—राष्ट्रपति, संविधान के अनुच्छेद 148 के खंड (5) के
साथ पठित, अनुच्छेद 309 के परन्तु द्वारा प्रदत्त शक्तियों का प्रयोग
करते हुए और भारतीय सेवा परीक्षा और सेवा विभाग में सेवारत व्यक्तियों
के संबंध में नियंत्रक महासेखा परीक्षा से परामर्श करने के द्वारा,
केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 का और संशोधन करने के
लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम केन्द्रीय सिविल सेवा (पेंशन)
प्रथम संशोधन नियम, 1989 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 के नियम 81 के
उपनियम (2) के खंड (क) के उपखंड (ii) में, 'आवेदन' शब्द के स्थान
पर 'प्रारूप 14 में दावा' शब्द रखे जाएंगे।

[संख्या 1/75/88-पी.एंड पी. डब्ल्यू-सी]

एन.एस. शंकरन, उप सचिव

पाठ टिप्पण: केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 का.प्रा. सं 934
तारीख 1-4-72 के रूप में प्रकाशित किए गए थे। नियमों का
तीसरा संस्करण (दिसम्बर, 1981 तक संगोषित) का 1982
में मुद्रण किया गया। तदनुसार इन नियमों के डी.पी. एण्ड
ए.प्रा. अधिसूचनाओं द्वारा निम्नलिखित संशोधन किए गए:—

क्रम सं.	अधिसूचना सं.	तारीख
1.	का.प्रा. सं. 3477	10-9-1983
2.	का.प्रा. सं. 4041	1-12-1984
3.	का.प्रा. सं. 4218	8-12-1984
4.	का.प्रा. सं. 3324	20-7-1985
5.	का.प्रा. सं. 5192	16-11-1985
6.	का.प्रा. सं. 5304	30-11-1985
7.	का.प्रा. सं. 762	1-3-1986
8.	का.प्रा. सं. 1246	29-3-1986
9.	का.प्रा. सं. 2325	21-6-1986
10.	का.प्रा. सं. 1174	9-5-1987
11.	का.प्रा. सं. 1968	8-8-1987
12.	का.प्रा. सं. 662	19-3-1988
13.	का.प्रा. सं. 2388	6-8-1988
14.	का.प्रा. सं. 1098	9-4-1988

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
& PENSIONS

(Department of Pension and F.W.)

New Delhi, the 9th January, 1989

S.O. 254.—In exercise of the powers conferred by article 309 read with clause (5) of the article of the Constitution and after consultation with the Controller and Auditor General in relation to persons in the Indian Audit and Accounts Department, the President hereby, makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely :—

1. (1) These rules may be called the Central Civil Services (Pension) First Amendment Rules, 1989.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Rule 81 of the Central Civil Services (Pension) Rules, 1972, in sub-rule (2) in clause (a) in sub-clause (ii), for the words "an application", the words "a claim in Form 14" shall be substituted.

[No. 1/75/88-P&PW/CI

N. S. SANKARAN, Dy. Secy.

Foot Note :—The Central Civil Services (Pension) Rules, 1972 were published as S.O. No. 934 dated 1-4-72. The Third Edition (Corrected upto December, 1981) of the rules was printed in 1982. The rules were subsequently amended vide DP & AR Notifications given below :—

S. No.	Notification No.	Date
1.	S.O. No. 3477	10-9-1983
2.	S.O. No. 4041	1-12-1984
3.	S.O. No. 4218	8-12-1984
4.	S.O. No. 3324	20-7-1985
5.	S.O. No. 5192	16-11-1985
6.	S.O. No. 5304	30-11-1985
7.	S.O. No. 762	1-3-1986
8.	S.O. No. 1246	29-3-1986
9.	S.O. No. 2325	21-6-1986
10.	S.O. No. 1174	9-5-1987
11.	S.O. No. 1966	8-8-1987
12.	S.O. No. 662	19-3-1988
13.	S.O. No. 2388	6-8-1988
14.	S.O. No. 1098	9-4-1988

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 12 जनवरी, 1989

का.प्र. 255.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 53 की उप धारा (1) के अनुसरण में केन्द्रीय सरकार एतद्वारा यह निदेश देती है कि भारत सरकार, वित्त मंत्रालय (आर्थिक कार्य विभाग) की दिनांक 19 मई, 1988 की अधिसूचना सं. एफ. 6(24)/86-लेखा में निम्नलिखित संशोधन किया जाए अर्थात्—

उक्त अधिसूचना के साथ संलग्न फार्म "क" के स्थान पर, इस अधिसूचना की अनुसूची में विनिर्दिष्ट फार्म रखा जाए।

अनुसूची
विनांक
की स्थिति के अनुसार भारतीय रिजर्व बैंक, बैंकिंग विभाग के कार्यों का विवरण

वेनकारियां	परिपक्वतियां
सुवर्ण पूंजी	नोट
प्रारक्षित निधि	रूपया सिक्के
राष्ट्रीय औद्योगिक ऋण	छोटे सिक्के
वैयक्तिक परिवर्तन निधि	खरीदे एवं भुनाए गए भित्त
जमा राशियां	(क) आंतरिक
(क) सरकार	(ख) बाह्य
(1) केन्द्रीय सरकार	(ग) सरकारी राजकोष वित्त
(2) राज्य सरकारें	वदेशों में पड़ी रकमें
(ख) बैंक	निवेश
(1) अनुसूचित वाणिज्यिक बैंक	ऋण और अग्रिम
(2) अनुसूचित राज्य सहकारी बैंक	(1) केन्द्रीय सरकार
(3) अन्य अनुसूचित सहकारी बैंक	(2) राज्य सरकारें
(4) गैर अनुसूचित राज्य सहकारी बैंक	ऋण और अग्रिम
(5) अन्य बैंक	(1) अनुसूचित वाणिज्यिक बैंक
(ग) अन्य	(2) अनुसूचित राज्य सहकारी बैंक
देय बिल	(3) अन्य अनुसूचित सहकारी बैंक
अन्य देयदारियां:	(4) गैर अनुसूचित राज्य सहकारी बैंक
	(5) राष्ट्रीय कृषि और ग्रामीण विकास बैंक
	(6) अन्य
	राष्ट्रीय औद्योगिक ऋण (दीर्घ-व्यक्ति परिवर्तन) निधि से ऋण, अग्रिम और निवेश:
	(क) ऋण और अग्रिम
	(1) भारतीय औद्योगिक विकास बैंक
	(2) भारतीय निर्यात-आयात बैंक
	(3) भारतीय औद्योगिक पुनर्निर्माण बैंक
	(4) अन्य
	(ख) निम्नलिखित के द्वारा जारी किए गए बांडों/डिबेंचरों में निवेश
	(1) भारतीय औद्योगिक विकास बैंक
	(2) भारतीय निर्यात-आयात बैंक
	(3) भारतीय औद्योगिक पुनर्निर्माण बैंक
	(4) अन्य
	राष्ट्रीय आवास ऋण (दीर्घ-व्यक्ति परिवर्तन) निधि से ऋण, अग्रिम और निवेश:
	(क) राष्ट्रीय आवास बैंक को ऋण और अग्रिम
	(ख) राष्ट्रीय आवास बैंक द्वारा जारी किए गए बांडों/डिबेंचरों में निवेश
	अन्य परिपक्वतियां

दिनांक....., 19..... के दिनों को गवर्नर

[संख्या एफ-5(11)/88-लेखा]

प्रागट्य, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 12th January, 1989

S.O. 255.—In pursuance of sub-section (1) of section 53 of the Reserve Bank of India, Act, 1934 (2 of 1934), the Central Government hereby directs that following amend-

ments shall be made in the Notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. F. 6(24)/85/Accts. dated 19th May, 1988, namely :—

For form 'A' annexed to the said notification the form specified in the schedule to this notification shall be substituted.

SCHEDULE

Form 'A'

RESERVE BANK OF INDIA

Statement of the Affairs of the Reserve Bank of India, Banking Department as on the

(Rs. Thousands)

LIABILITIES	ASSETS
Capital paid Up	Notes
	Rupee Coin
	Small Coin
Reserve Fund	Bills Purchased and Discounted :—
National Industrial Credit	(a) Internal
(Long Term Operations) Fund	(b) External
	(c) Government Treasury Bills
National Housing Credit	Balances Held Abroad
(Long Term Operations) Fund	Investments
Deposits :—	Loans and Advances to :—
(a) Government	(i) Central Government
(i) Central Government	(ii) State Governments
(ii) State Governments	Loans and Advances to :—
	(i) Scheduled Commercial Banks
(b) Banks	(ii) Scheduled State Co-operative Banks
(i) Scheduled Commercial Banks	(iii) Other Scheduled Co-operative Banks
(ii) Scheduled State Co-operative Banks	(iv) Non-Scheduled State Co-operative Banks
(iii) Other Scheduled Co-operative Banks	(v) NABARD
(iv) Non-Scheduled State Co-operative Banks	(vi) Others
(v) Other Banks	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund :—
(c) Others	(a) Loans and Advances to :—
Bills payable	(i) Industrial Development Bank of India
	(ii) Export Import Bank of India
	(iii) Industrial Reconstruction Bank of India
	(iv) Others
	(b) Investments in bonds/debentures issued by :—
	(i) Industrial Development Bank of India
	(ii) Export Import Bank of India
	(iii) Industrial Reconstruction Bank of India
	(iv) Others
	Loans, Advances and Investments from National Housing Credit (Long Term Operations) Fund :—
	(a) Loans and Advances to National Housing Bank
	(b) Investments in bonds/debentures issued by National Housing Bank
Other Liabilities	Other Assets

Dated the _____ day of _____ 19____

Governor.

PRAN NATH, Under Secy.
[No. F. 55(11)/88-Accts.]

केन्द्रीय भविष्य निधि आयुक्त का कार्यालय

नई दिल्ली, 10 जनवरी, 1989

का.प्र. 256.—केन्द्रीय भविष्य निधि आयुक्त को जहाँ यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियुक्ता तथा कर्मचारियों का बहुमत इस बात से सहमत हो गए हैं कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्र.सं.	स्थापना का नाम व पता	व्यक्ति की तिथि
1	2	3
1.	मै० जय शंकर गथा प्रसाद, 59, काटन स्ट्रीट (पी-32, कलाकार स्ट्रीट) कलकत्ता-700007.	1-4-87
2.	मै० डी.बी. इण्डस्ट्रीज, 1, बुरोशिबताला, मेन रोड, कलकत्ता-700038	1-4-87
3.	मै० एवरेस्ट इंजिनियर्स एंड टूल मेकर्स 12, जुगीपारा रोड, कलकत्ता-700028	1-2-87
4.	मै० इलेक्ट्रो पावर सेंटर, 47-ए, बी०टी० रोड, कलकत्ता-700050	1-8-87
5.	मै० काउंसिल ऑफ होमियोपैथिक मेडिसिन, प० बंगाल, 1-बी, पुरानी डाक घर गली (हॉसरो मंजिल), कलकत्ता-700001	1-2-87
6.	मै० कलकत्ता बोर्ड मिल्स, प्रा. लि., 72, अक्षय कुमार मुखर्जी रोड, कलकत्ता-700090.	1-2-87
7.	मै० राम सहाय जुगल किशोर, एन०सी० दास गुप्ता रोड, डाक व थिला पुरुलिया, (प. बंगाल)	1-8-87
8.	मै० देवी सिनेमा, डाक व ग्राम मागरा, जिला हुगली, कलकत्ता	1-11-87
9.	मै० सी टैंकर मेक्केनवरिंग कं., 105/3, उल्टादंगा मेन रोड, कलकत्ता-700067.	1-6-87
10.	मै० एसोसियेटेड मेकेनिकल इण्डस्ट्रीज, 499, रबिन्द्रा सराय, कलकत्ता-700005.	1-11-87
11.	मै० एनयस एण्ड कैमिकल्स, 28, स्ट्रांड रोड, (हॉसरो मंजिल), कलकत्ता-700001 तथा इसकी फैक्ट्री (1) 47/2, सयला रोड, बजबज (2) और शाखा 7, मागलदेवी स्ट्रीट, बम्बई-400003	1-4-87
12.	मै० जैन डोजन, 17, गणेश चन्द्र एवेन्यू कलकत्ता-700013	1-7-87
13.	मै० मिलपुर टी कं. प्रा. लि., 24, आर. एन. मुखर्जी रोड, कलकत्ता-700001	1-7-87
14.	मै० मंडल प्राइस एण्ड कोल्ड स्टोरेज डाक व गाँव विशनपुर जि. बकुरा, (प. बंगाल) तथा इसका प्रधान कार्यालय, 43-ए, उल्टादंगा रोड, कलकत्ता-4	1-1-87

1	2	3
15.	मै० जलजीवा प्राइस फौज, 167/2, एस.एन. राय रोड, कलकत्ता-700038 (वेहूला) तथा शाखा 9 डा. जे. एन. मजूमदार स्ट्रीट, कलकत्ता-26	1-4-87

अतः केन्द्रीय भविष्य निधि आयुक्त, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्थापनाओं को उक्त या उम प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्थापनाओं के नाम के सामने दर्शायी गयी हैं।

[संख्या क.प्र.नि.प्रा./1(4)प० बंगाल(6)/88]

OFFICE OF THE CENTRAL PROVIDENT FUND
COMMISSIONERNew Delhi, the 10th January, 1989

S.O. 256.—Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishments namely:—

Sl. No.	Name & Address of the Establishment	Date of Coverage
1	2	3
1.	M/s. Jayshankar Gyaiprasad, 59, Cotton Street (P-32, Kalakar Street), Calcutta-700007.	1-4-87
2.	M/s. D.B. Industries, 1, Buroshibatala Main Road, Calcutta-700038.	1-4-87
3.	M/s. Everest Engineers and Tool Markers, 12, Jugipara Road, Calcutta-700028.	1-2-87
4.	M/s. Electro Power Centre, 47-A, B.T. Road, Calcutta-700050.	1-8-87
5.	M/s. Council of Homoeopathic Medicine, West Bengal, I-B, Old Post Office Street, (3rd floor), Calcutta-700001.	1-2-87
6.	M/s. Calcutta Board Mills Pvt. Ltd., 72-Akshay Kumar Mukherjee Road, Calcutta-700090.	1-2-87
7.	M/s. Ram ahay Jugul Kishore, N.C. Das Gupta Road, P.O. & Distt. Purulia, (W.B.)	1-8-87
8.	M/s. Dabi Cinema, Village & PO Magra, Distt. Hooghly, Calcutta.	1-11-87
9.	M/s. The Tanker Manufacturing Co., 105/3, Ultaadanga Main Road, Calcutta-700067.	1-6-87

केन्द्रीय भविष्य निधि प्रायुक्त कार्यालय

1

3

10.	M/s. Associated Mechanical Industries, 499, Rabindra Sarai, Calcutta-700005.	1-11-87
11.	M/s. Alums and Chemicals, 28, Strand Road, (2nd Floor), Calcutta-1 and its factory at (1) 47/2 S-thna Road, Budge Budge (2) 7, Nagaldevi Street, Bombay-400003.	1-4-87
12.	M/s. Jain Diesals, 17, Ganesh Chandra Avenue, Calcutta-600013	1-7-87
13.	M/s. Nilpur Tea Co. Pvt. Ltd., 24, R.N. Mukherjee Road, Calcutta-700001.	1-7-86
14.	M/s. Mondel Ice and Cold Storage, Post & Village Bishnupur, Distt. Bankura (WB) and its H.O. at 43-A, Ultadanga Road, Calcutta-4.	1-1-87
15.	M/s. Jalajoga Ice Cream, 167/2, S.N. Roy Road, Calcutta-700038 (Bhala) including branch at 9, Dr. J.N. Manjumar Street, Calcutta-26	1-4-88

Now, therefore, in exercise of the powers conferred by Sub-Section (4) of Section I of the said Act, The Central Provident Fund Commissioner hereby applies the Provisions of the said Act to the above mentioned establishments from and with effect from the dates mentioned against the name of each of the said establishments.

[No. CPFC/1(4) WB/(6)88]

सा. प्रा. 257.—केन्द्रीय भविष्य निधि प्रायुक्त को जहां यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियोक्ता तथा कर्मचारियों का बहुमत इस बात से सहमत हो गए हैं कि कर्मचारी भविष्य निधि और प्रकीर्ण संबंध अधिनियम, 1952 (1952 का 19) के संबंध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्र. सं.	स्थापना का नाम व पता	व्याप्ति की तिथि
01.	मै. के. के. बी. इंजीनियरिंग वर्क्स, बी-63, राधा कृष्ण सोसायटी पोस्ट, मक्तमपुर, भड़ोच	01-05-87
02.	मै. केदार कंस्ट्रक्शन का, पटेल फालिया, पो. जादेश्वर, जिला भड़ोच	30-06-86
03.	मै. ज्योति टेक्सटाइल्स ओल्ड सिनेमा रोड, गन देवी जिला बुलसर	31-05-76
04.	मै. कला टेक्सटाइल्स, ओल्ड सिनेमा रोड, गन देवी, जिला बुलसर	31-05-76
05.	मै. नरेन्द्र टेक्सटाइल्स ओल्ड सिनेमा रोड, पटेल फालिया गनदेवी, जिला बुलसर	31-05-76
06.	मै. अशोक टेक्सटाइल्स, ओल्ड सिनेमा रोड, गनदेवी जिला बुलसर	31-05-76

07.	श्री. भगवती टेक्सटाइल्स, ओल्ड सिनेमा रोड, गनदेवी जिला बुलसर	31-5-76
08.	मै. गुडवर्क इंजीनियर्स, 4, नवयुग सोसायटी, वरसाया बड़ोदा-6	01-02-86

अतः केन्द्रीय भविष्य निधि प्रायुक्त, उक्त अधिनियम की धारा 1 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्थापनाओं को उस या उस प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्थापनाओं के नाम के सामने दर्शाये गये हैं।

[संख्या: के. प्र. नि. प्र./1(4)/गुज.(7)/88]

S. O. 257.—Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishments namely:—

Sl. No.	Name & Address of the Establishment	Date of Coverage
1.	M/s. K.K.B. Engineering Works, B/63, Radha Krishna Society, Maktampur, Bharuch	1-5-87
2.	M/s. Kedar Construction Co., Patel Falia at & Post. Zadeshwar Distt. Bharuch	30-6-86
3.	M/s. Jyoti Textiles, Old Cinema Road, Gandevi Distt. Bulsar.	31-5-76
4.	M/s. Kala Textiles, Old Cinema Road, Gandevi, Distt. Bulsar	31-5-76
5.	M/s. Narendra Textiles, Old Cinema Road, Patel Falia, Gandevi, Distt. Bulsar	31-5-76
6.	M/s. Ashok Textiles, Old Cinema Road, Gandevi, Distt. Bulsar.	31-5-76
7.	M/s. Bhagwati Textiles, Old Cinema Road, Gandevi, Distt. Bulsar.	31-5-76
8.	M/s. Goodwork Engineers, 4 Navyug, Society, Varasia Baroda-6.	1-2-86

Now, therefore, in exercise of the powers conferred by sub-Section (4) of Section I of the said Act, The Central Provident Fund Commissioner hereby applies the Provisions of the said Act to the above mentioned establishments from and with effect from the dates mentioned against the name of each of the said establishments.

[No. CPFC/E. 1(4)/GJ (7)/88]

क्र. मा. 253.—केन्द्रीय भविष्य निधि आयुक्त को जहाँ यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियोजन तथा कर्मचारियों का बहुमत इस बात से सहमत हो गए हैं कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्र. सं.	स्थापना का नाम व पता	व्याप्ति की तिथि
01.	मै. ओ. भार्गी होटल, 308-309, भरथियर रोड, सिद्धान्तपुर, कोयम्बटूर-641 044	1-4-88
02.	मै. एवर ग्रीन गार्डन नर्सरी नं. 6, बजलाई कोयल स्ट्रीट कंगम, टी टी टी आई पोस्ट आफिस, मद्रास-600113	1-2-87
03.	मै. इंडिया आफसेट, 230, रीयपय हाई रोड, मद्रास-14	1-3-87
04.	मै. एक्सेल फैब्रिकेटर्स, 15, वेब प्लाट, (एन. पी) गूडी इंडस्ट्रीयल ईस्टेट मद्रास-97	1-1-88
05.	मै. बियरिंग्स एंड स्पेयरस सेंटर, 46, आर्मेनियन स्ट्रीट, मद्रास-1	1-1-88
06.	मै. सरजा मार्केटिंग सर्विसेज, 9, ग्रीनवेज रोड, राजा अन्नामलई पुरम, मद्रास-28 तथा इसकी शाखा पी. टी. राजन रोड, के. के. नगर मद्रास-78	1-8-87
07.	मै. क्लासिक इंटरप्राइजेज, 7, आर्मेनियन स्ट्रीट, मद्रास-1 और इसकी फेक्ट्री नं. 217, थम्बु चेटी स्ट्रीट, मद्रास-1 में स्थित	1-11-87
08.	मै. विमला सिक्योरिटी फोर्स, 12, कामराज स्ट्रीट, पहली मंजिल, गूडुवानचेरी-603202	1-4-88
09.	मै. टेम्बा इंजीनियरिंग (प्रा.) लि., एस./नं. 377, पत्तमायुर पूवा थूरई, मद्रुरागम तालूक, तथा इसकी शाखायें (i) 59, जोशियर स्ट्रीट, मद्रास-34 (ii) 14, वालेंस गार्डन सैकंड स्ट्रीट मद्रास-6,	1-9-87
10.	मै. मद्रुरन्दगम कोप. भूगर्भ जिलस इंप्लोईज, कोप. स्टोरस लि., पदलम 603308	1-3-88
11.	मै. एस. आर. एस. थिरुवीदेमालुवर रोड, चेटी मंडपम, कुम्बाकोम	1-2-88
12.	मै. श्री जगन्नाथ इन्वेस्टमेंट प्रा लि. श्री भार्गी होटल कीम्पलैक्स, 309, भरथियर रोड सिद्धान्तपुर, कोयम्बटूर-641044	1-2-88

अतः केन्द्रीय भविष्य निधि आयुक्त उक्त अधिनियम की धारा 1 की उप-धारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्थापनाओं को उस या उस प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्थापनाओं के सामने दर्शायी गयी हैं।

[सं. के. म. नि. मा./1 (4)/टी. एन (8)/88]

S.O. 253.—Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of

1952), should be made applicable to the said establishments namely:-

Sl. No.	Name & Address of the Establishment	Date of coverage
1.	M/s. Sri Aarvee Hot In, 303, 309, Bharathiar Road, Siddhapur, Coimbatore -641 044	1-4-88
2.	M/s. Ever Green Garden Nursery, No. 6, Bajnani Koil Street, Kanganam, TTTI Post Office, Madras-600113.	1-2-87
3.	M/s. India Off-set, 230, Royapetah High Road, Madras-14.	1-3-87
4.	M/s. Excel Fabricators, 15, D. v. Plot (NP), Guindy, In. l. Estate, Madras-97.	1-1-88
5.	M/s. Bearings and Spares Centre, 46, Armenian Street, Madras-1.	1-1-88
6.	M/s. Sruga Marketing Services, 9, Green ways Road, Raju Annamalai Puram, Madras-28, alongwith office at P.T. Rajan Road, K.K. Nagar, Madras-78.	1-8-87
7.	M/s. Classic Enterprises, 7, Armenian Street, Madras-1 including its Factory at 217, Thambuchetty Street, Madras-1	1-11-87
8.	M/s. Vinila Security Force, 12, Kamaraj Street, 1st Floor, Guduvancheri-603202.	1-4-88
9.	M/s. Tamba Engineering (P) Ltd., S/No. 377, Pazhamathur, Pukh Thurai, Madurantakam Taluka including branches at (i) 59, Josier Street, Madras-34 (ii) 314, Wallace Garden 2nd Street, Madras-6.	1-9-87
10.	M/s. Madurantakam Co-op. Sugar Mills Employees Co-op. Stores Ltd., Padalam-603308	1-3-88
11.	M/s. S.R.S., Thiruvaidaimarudur Road, Chettimandapam, Kumbakom	1-2-88
12.	M/s. Sri Jagannatha Investments (P) Ltd., Sri Aarvee Hotels Complex, 309, Bharathiar Road, Siddhapur, Coimbatore-641044	1-2-88

Now, therefore, in exercise of the powers conferred by Sub-Section 4 of sub-Section 1 of the said Act, the Central Provident Fund Commissioner hereby applies the Provisions of the said Act to the above mentioned establishments from and with effect from the dates mentioned against the name of each of the said establishments.

[No. CPFC/E. 1(4)/TN/(8)/88]

सा. का. 259 — केन्द्रीय भविष्य निधि धायुक्त को जहाँ यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियोजता तथा कर्मचारियों का बहुमत इस बात से सहमत हो गया है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्र. सं.	स्थापना का नाम व पता	व्याप्ति की तिथि
01.	सोनालकर मशीन एक्सेरीज (प्रा.) लि. पी. बी. रोड, हरिद्वार, पी. आ. चित्तदुर्गा, जिला	1-7-87
02.	मै. कस्तूरबा मेडिकल सेंटर फॉर वूमन एंड बच्चों नं. 59, प्लेस रोड, वसन्त नगर, बंगलोर-52	1-7-87
03.	मै. सर्वे ऑफ इंडिया (टिफिन रूम) साउथ सर्कल ऑफिस, कोरामंगल दूसरा ब्लॉक सरजापुरा रोड, बंगलोर-560034	1-9-83
04.	जोहरी एंड जोहरी, 89/1, 5 मार्टिन दुमकुर रोड, यशवन्तपुर बंगलोर-22	31-8-87
05.	मै. तालुक एग्रीकल्चरल प्रोड्यूस को-ऑपरेटिव सोसा- यटी लि., पेस्वा पटना-571107	30-9-87
06.	मै. मिशन कन्वेयर (प्रा.) लि., पी. बी. नं. 59, कब्जा रोड, हुबली-580024	30-11-87
07.	मै. मिल्क प्रोड्यूसर्स को-ऑ. सोसायटी लि., भारतलिंगा, नदूर तालुक मंड्या जिला	31-5-87
08.	मै. रियारा सेवा सहकारी संघ मिना मिना सौनाकल बलेरी, तालुक	1-12-86

अतः केन्द्रीय भविष्य निधि धायुक्त, उक्त अधिनियम की धारा 1 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्थापनाओं को उस प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्थापनाओं के नाम के सामने दर्शाये गये हैं।

[सं. के. भ. नि. मा./1/(4)/के. एन (8)/88]

S.O. 259 — Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishments namely:-

Sl. No.	Name & Address of the Establishment	Date of coverage
1.	M/s. Sonalkar Machine Accessories (P) Ltd., P.B. Road, Harihar P.O., Chittardurga Distt	1-7-87
2.	M/s. Kasturba Medical Centre for Women & Children. No. 59, Palace Road, Vasanthnagar, Bangalore-52.	1-7-87
3.	M/s. Survey of India. (Tiffin Room) South Circle Office, Koramangal, Ind Block, Sarajapura Road, Bangalore-560034.	1-9-83

Sl. No.	Name & Address of the Establishment	Date of coverage
4.	M/s. Joubhari & Joubhari. 60/1, 5th Mile, Tumkur Road, Yashwanthpur, Bangalore-22.	31-8-87
5.	M/s. Taluk Agricultural Produce Co-opera- tive Marketing Society Ltd., Periyapatna-571107.	30-9-87
6.	M/s. Milk Producers Co-operative Society Ltd., Maralliga, Majdur Taluk Mandya Distt.	31-5-87
7.	M/s. Miven Mayfron Conveyors (Pvt). Ltd., P.B. No. 59, Karwar Road, Hubli-580024.	30-11-87
8.	M/s. Rythara Seva Sahakara Sangha Niya Mitha Sanganakal, Bellary Taluk.	1-12-86

Now, therefore, in exercise of the powers conferred by Sub-section (4) of Section 1 of the said Act, the Central Provident Fund Commissioner hereby applies the Provisions of the said Act to the above mentioned establishment from and with effect from the dates mentioned against the name of each of the said establishments.

[No. CPFC/1(4)KN/(9)/88]

नई दिल्ली, 18 जनवरी, 1989

सा. मा 260 — केन्द्रीय भविष्य निधि धायुक्त को जहाँ यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियोजता तथा कर्मचारियों का बहुमत इस बात से सहमत हो गया है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्रम सं.	स्थापना का नाम व पता	व्याप्ति की तिथि
1.	मैसर्स शिवरानी इलेक्ट्रिकल कंपनी मलिक लोहा, नवावा (बिहार)	31-01-85
2.	मै. नूतन प्रेस, कलिंग रोड, कटिहार (बिहार)	01-04-85
3.	मै. एन्टरा लैबोरी, नागेश्वर कानौनी, मित्र सदन, बोरिंग रोड पटना-800001	01-06-87

अतः केन्द्रीय भविष्य निधि धायुक्त, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्थापनाओं को उस या उस प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्थापनाओं के नाम के सामने दर्शाये गये हैं।

[संख्या क. भ. नि. मा./1(4) बिहार/10/88]

New Delhi, the 18th January, 1989

S. O. 260 — Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of

[1952]. and in the main to establish ment
namely:—

Sl. No.	Name & Address of the Establishment	Date of coverage
1.	M/s. Shivrani Electrical Co., Mallik Tola, Nawada (Bihar)	31-1-85
2.	M/s. Nutan Press, College Road, Kaithar (Bihar)	1-4-85
3.	M/s. Intra Laboratory, Nageshwar Colony, Shiva Sदन, Boring Road, Patna-800001	1-6-87

Now, therefore, in exercise of the powers conferred by Sub-Section 4 of Section I of the said Act. The Central Provident Fund Commissioner hereby applies the Provisions of the said Act to the above mentioned establishments from and with effect from the dates mentioned against the name of each of the said establishments.

[No. CPFC/E. 1(4)/BR (10)/88]

का. प्रा. 261 :—कैब्रीय भविष्य निधि आयुक्त को जहाँ यह प्रतीत होता है कि निम्नलिखित स्थापनाओं से संबंधित नियोजन तथा कर्मचारियों का ब्ययपत्र इस बात से सहमत हो गए हैं कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध निम्नलिखित स्थापनाओं पर लागू किए जायें।

क्र. सं.	स्थापना का नाम व पता	व्यक्ति की तिथि
01. मी.	जर्मन एकात्मिक एकसंघेज सचिस, 176, गोलफ लिफ्टस, नई दिल्ली-3	01-01-88
02. मी.	छावको प्रिन्टरस I. लि., बी-119, ओखला इण्डस्ट्रीयल एरिया, नई दिल्ली-20 और इसका पंजीकृत कार्यालय 9/49-बी, इण्डस्ट्रीयल एरिया, कीर्ति नगर, नई दिल्ली-15 में स्थित	05-05-87
03. मी.	समीरा हज्जीनियस प्रा. लि., जी.-174 ओखला इण्डस्ट्रीयल एरिया, फेज-1, नई दिल्ली-20	01-04-88
04. मी.	नेहरू युवा केन्द्र संगठन, 1116-बी, गेट-28, जवाहर लाल नेहरू स्टेडियम, नई दिल्ली-3 और इसका जिला केन्द्र	01-01-88
05. मी.	ईरिगेयान एण्ड पावर डिपार्टमेंटल कंस्टीन, दूसरी मंजिल, श्रम शक्ति भवन, नई दिल्ली-110001	01-12-86
06. मी.	एक्सप्रेस शिपिंग एण्ड कैरियर्स लि. 4752/23, डा. अंसारी रोड, दरियागंज, नई दिल्ली-2 और इनको यात्राएं साहिबाबाद, (उ. प्र.), राऊरकेला (उड़ीसा) कोठा (म. प्र.) और हमीर (म. प्र.) में स्थित	01-09-86
07. मी.	लैंड एण्ड बिल्डिंग डिपार्टमेंटल कंस्टीन विकास भवन, दिल्ली प्रशासन। जी ब्लाक, आई. पी. इस्टेट, नई दिल्ली।	01-03-88
08. मी.	रवि एण्ड कम्पनी "कैलाश" ग्राउंड फ्लोर, 28, कस्तूरबा गांधी मार्ग, नई दिल्ली-1	01-05-82

09. मै. प्रकाश प्लास्टिक इण्डस्ट्री, सी-144, नारायणा इण्डस्ट्रीयल एरिया, फेज-1, नई दिल्ली-28 और इसका युनिट नं. 2 बी-55. ओखला इण्डस्ट्रीयल एरिया, फेज-1 नई दिल्ली में स्थित	01-09-88
10. मै. एच. के. बतरा एण्ड सन्स, ए-87/1, नारायणा इण्डस्ट्रीयल एरिया, फेज-1, नई दिल्ली-28	01-04-88
11. एयर फोर्स गोल्डन जुबली इस्टीमेट, सुभोता पार्क, नई दिल्ली-110010	01-09-86
12. मै. डब्ल्यू. बी. एम. सिस्टमस प्रा. लि., बी-277 ओखला इण्डस्ट्रीयल एरिया, फेज-1, नई दिल्ली-20, और इसका पंजीकृत कार्यालय, के-36, कनाट प्लेस नई दिल्ली-1 और इसको शाखा बम्बई-400004 में	01-01-86
13. मै. डीतन्स मेनटेनन्स, 26, गीतम नगर, नई दिल्ली-49	01-03-88
14. मै. बिक्टर प्रीफन मर्चन्डाईजिंग प्रा. लि., 8 बी मंजिल, ईरोड एपाटमेंट 56, नेहरू प्लेस, नई दिल्ली-19 और इसको शाखा 79/9 बी भाजार्प जकबीस चन्द्र बोस रोड, कलकत्ता-14	12-01-88
15. मै. डीब कारपोरेशन, लक्ष्मी भवन, 72, नेहरू प्लेस, नई दिल्ली-19, और फैक्ट्री ओखला नई दिल्ली और एक शाखा बंगलूर में स्थित।	01-07-88

मतः केन्द्रीय भविष्य तिथि भायुक्त, उक्त अधिनियम की धारा 1 को उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए उपर्युक्त स्वापनाओं को उस या उस प्रभावी तिथि से अधिनियम को लागू करते हैं जो उक्त स्वापनाओं के नाम के सामने दर्शायी गयी हैं।

[सं. के. भ. वि. ग्रा. / 1(4) / (डी एल) (II) / 98]

एस. पी. मेहरोत्रा, केन्द्रीय भविष्य निधि आयुक्त

S.O. 261.—Whereas it appears to the Central Provident Fund Commissioner that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishments namely:

Sl. No.	Name & Address of the Establishment	Date of coverage
1.	M/s. German Academic Exchange Service, 176, Golf Links New Delhi-3.	1-1-88
2.	M/s. Dhruvco Printers Pvt. Ltd., D-11 , Okhla Indl. Area. Phase-I. New Delhi-20 including its Regd. Office at 9/49-B. Indl. Area, Kirti Nagar. New Delhi-15.	1-5-87

1	2	3	4	1	2	3	4
3.	M/s. Sameera Engineers Pvt. Ltd., D-174, Okhla Indl. Area, Phase-I, New Delhi-20.		1-4-88	10.	M/s. H.K. Batra & Sons. A/87/1 Naraina Indl. Area, Phase-I, New Delhi-28.		1-4-88
4.	M/s. Nehru Yuva Kendra Sangathan, 1116-B, Gate-26, Jawahar Lal Nehru Stadium, New Delhi-3 including its Dist. Kendras		1-1-88	11.	M/s. Air Force Golden Jubilee Institute, Subroto Park, New Delhi-110 010.		1-9-86
5.	M/s. Irrigation & Power Departmental Canteen, 2nd Floor, Shram Shakti Bhawan, New Delhi-110001.		1-12-86	12.	M/s. W.B.M. Systems Pvt. Ltd., B-277, Okhla Indl. Area, Phase-I, New Delhi-20. including its Regd. Office at K-36, Connaught Place, New Delhi-1 and branch at Bombay-400034,		1-1-86
6.	M/s. Express Shipping and Carriers Ltd., 4752/23, Dr. Ansari Road, Darya Ganj, New Delhi, 2 including its branches at Sahibabad (UP), Rourkela (OR), Korba (MP) and Indore (MP)		1-9-86	13.	M/s. Dee Sons Maintenance, 26, Gautam Nagar, New Delhi-49.		1-3-88
7.	M/s. Land & Building Departmental Canteen/Delhi Admn. Vikas Bhawan, G-Block, I.P. Estate, New Delhi.		1-3-88	14.	M/s. Victor Griffon Merchandising Pvt. Ltd., 8th Floor, Bros Apartments, 56, Nehru Place, New Delhi-1 including its branch at 79/9B A.J.C.B. Road, Calcutta-14.		12-1-88
8.	M/s. Ruchi & Company "KAILASH" Ground Floor, 26, Kasturba Gandhi Marg, New Delhi-1,		1-5-82	15.	M/s. Dove Corporation, Lakshmi Bhawan, 72 Nehru Place, New Delhi-19, including its factory at Okhla, New Delhi and branch office at Bangalore.		1-7-88
9.	M/s. Parkash Plastic Industry, C-144, Naraina Indl. Area, Phase-I, New Delhi-28 including its unit No. 2 at B-55, Okhla Indl. Area, Phase-I, New Delhi		1-8-86	Now, therefore, in exercise of the powers conferred by Sub- Section (4) of Section 1 of the said Act, The Central Provident Fund Commissioner hereby applies the Provisions of the said Act of the above mentioned establishments from and with effect from the dates mentioned against the name of each of the said establishments.			

[No. CPFC/1(4)/DL.(11)/Vol. Cov./88]

S.P. MEHROTRA,

Central Provident Fund Commissioner

उद्योग मंत्रालय

(रसायन और पेट्रो रसायन विभाग)

नई दिल्ली, 17 जनवरी, 1989

का. पा. 262.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि महाराष्ट्र राज्य में गांव बेड से तहसिल वेज जिला रायगढ़ से गांव मेडेरवार तहसिल अधिभाग जिला रायगढ़ तक पेट्रोलिएम तेल घसबा नैसर्गिक गैस घसबा एंजुमंट घसबा घसबा खनिज पदार्थों के परिवहन के लिए पाइप लाइन इंडियन पेट्रोकेमिकल्स कॉर्पोरेशन लिमिटेड, महाराष्ट्र गैस अँकर कॉम्प्लेक्स विभाग, बिलेपार्ले (प), मुंबई द्वारा बिछाई जानी चाहिये।

और यतः यह प्रतीत होता है कि ऐसी लाईनों को बिछाने के प्रयोजन के लिए एतद्वय अनुसूची में वर्जित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलिएम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाईप लाईन बिछाने के लिये आशेष सख्त प्राधिकारी, इंडियन पेट्रोकेमिकल्स कॉर्पोरेशन लिमिटेड, महाराष्ट्र गैस अँकर कॉम्प्लेक्स, नागोठगा, तहसिल रोहा, जिला रायगढ़ को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई अन्ततः हो या किसी निधि अथवा की जाय।

अनुसूची

पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 की धारा 38 की उपधारा 1 अधिसूचना क्रमांक तारीख 1988 की अनुसूची

अ. नं.	गांव का नाम	तहसिल	जिला	सर्वे नंबर	हिस्सा नंबर	गट नंबर	क्षेत्र
							है० घार०
1.	चोले	पेण	रायगढ़	11	4 पी	—	0-2-0
2.	"	"	"	15	2B पी	—	0-3-5
3.	"	"	"	16	1B/2 पी	—	0-1-5
4.	"	"	"	16	1 B पी	—	0-7-2

[क्र. सं. 34027/1/87-पी सी-III]

एस. के. गुप्ता, डेस्क अधिकारी

MINISTRY OF INDUSTRY

(Department of Chemicals & Petrochemicals)

New Delhi, the 17th January, 1989

S.O. 262.—Whereas it appears to the Central Government that it is necessary in the public interest that for the Transport of petroleum, , Oil, Natural Gas, effluent or any mineral from village BENSE Taluka PEN, District Raigad to village MEDHEKHAR, Taluka ALIBAG, District Raigad in the State of Maharashtra, Pipelines should be laid through the agency of India Petrochemicals Corporation Limited, Maharashtra Gas Cracker Complex Division, Vile Parle (West), Bombay;

And whereas it appears to the Central Government that for the purpose of laying such pipelines, it is necessary to ac-

quire the right of user in the lands specified in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by Sub-section (i) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962), the Central Government hereby notify their intention to acquire the right of user in the lands referred to in the schedule;

Any person interested in the said lands having any objection for laying the pipelines through the said lands may prefer an objection within 21 days from the date of the notification, to the Competent Authority, Indian Petrochemicals Corporation Limited, Maharashtra Gas Cracker Complex Division, Nagothane, Tahsil Roha, Dist. Raigad.

And every person making such an objection shall state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Schedule to Notification under Section 3 (i) of the Petroleum and Minerals Pipe Lines (Acquisition of Right of user in land) Act, 1962

Sr. No.	Name of Village	Tahsil	District	Survey No.		Hissa No.	Gat No.	Area H. R.
				Old	New			
1.	Chole	Pen	Raigad	11	4 P	—	—	0-2-0
				15	2 BP	—	—	0-3-5
				16	10/2P	—	—	0-1-5
				16	1 BP	—	—	0-7-2

[F. No. 34027/1/87-PC-III]

S.K. GUPTA, Desk Officer

खाद्य एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 5 जनवरी, 1989

का. मा. 263.—भारतीय मानक ब्यूरो विनियम, 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो द्वारा अधिपूचित किया जाता है कि कमीज के सूती जालीदार कपड़े की प्रति इकाई मुहर लगाने की फीस जिसका विवरण नीचे अनुसूची में दिया गया है, निर्धारित कर दी गई है और यह फीस 1987-01-01 से लागू होगी।

अनुसूची

क. सं.	उत्पाद/उत्पादन की श्रेणी	सम्बन्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहर लगाने की फीस
(1)	(2)	(3)	(4)	(5)
1.	कमीज का सूती जालीदार कपड़ा	IS : 1144—1980	एक वर्ग मीटर	(1) 2.25 रु. प्रति इकाई, पहली 3000 इकाइयों के लिए, (2) 1.50 रु. प्रति इकाई, 3001वीं इकाई से 6000 इकाइयों तक के लिए, और (3) 1.00 रु. प्रति इकाई, 6001वीं इकाई और उससे अधिक इकाइयों के लिए।

[संख्या सी एम बी/13: 10]

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, the 5th January, 1989

S.O. 263—In pursuance of sub-regulation(z) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby, notifies that the marking fee (per unit for Cotton cellular shirting details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 1987-01-01:

SCHEDULE


Sl. No.	Product/Class of Product	No. and Year of Relevant Indian Standard	Unit	Marking fee per unit
(1)	(2)	(3)	(4)	(5)
1.	Cotton cellular shirting	IS: 1144-1980	One Square metres	(i) Rs. 2.25 per unit for the first 3000 units; (ii) Rs. 1.50 per unit for the 3001st to 6000 units, and (iii) 1.00 per unit for the 6001st unit and above

[No. CMD/13:10]

का. मा. 264.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 9 के उपनियम (1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिपूचित करता है कि जिस भारतीय मानक मुहर का डिजाइन, उसके शाब्दिक विवरण और सम्बन्ध भारतीय मानक के शीर्षक सहित नीचे अनुसूची में दिया गया है, वह निर्धारित कर दिया गया है।

भारतीय मानक ब्यूरो अधिनियम 1986 और उसके अधीन बने नियमों तथा विनियमों के प्रयोजन के लिए यह मानक मुहर 1987-01-01 से लागू होगी।

अनुसूची


क्र. मानक मुहर की डिजाइन सं०	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	मानक मुहर के डिजाइन का सांख्यिक विवरण
(1)	(2)	(3)	(4)
1. IS : 1144 	कमीज का सूती जालीदार कपड़ा	IS : 1144—1980	स्तम्भ (2) में दिखाई गई निश्चित शैली और परस्पर सम्बद्ध अनुपात में बनाया गया "ISI" प्रसारवृत्त भारतीय मानक ब्यूरो का मोनोग्राम, जिसमें भारतीय मानक की संख्या डिजाइन में दिखाए अनुसार मोनोग्राम के ऊपर प्रक्षिप्त हो।

[संख्या सी एम की/13 : 9]

S.O. 264—In pursuance of sub-rule (1) of the rule 9 of Bureau of Indian Standards (Certification) Rules, 1987 the Bureau of Indian Standards, hereby, notifies that the Standard Mark, design of which together with the description of the design and the number and year of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark for the purpose of the Bureau of Indian Standards (Certification) Act, 1986 and the Rules and Regulation framed thereunder, shall come into force with effect from 1987-01-01:


SCHEDULE

Sl. No.	D sign of the Standard Mark	Product/Class of Product	No. and year of the Relevant Indian Standard	Description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1. IS : 1144 		Cotton cellular shirting	IS : 1144-1980	The monogram of the Bureau of Indian Standards, consisting of letters 'ISI' drawn in the exact style and relative proportions as indicated in Col (2); the number of the Indian Standard, being superscribed on the top side of the monogram as indicated in the design.

[No. CMD/13 : 9]

क्र. मा. 265.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 9, उपनियम 2 के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि भारत के राजपत्र भाग 2, खंड 3, उपखंड (2), दिनांक 1975-01-25 में प्रकाशित तत्कालीन उद्योग तथा नागरिक प्रति मंत्रालय (भारतीय मानक संस्था) की अधिसूचना संख्या का. मा. 234, दिनांक 1975-01-01 का अतिक्रमण करते हुए सूती धूसर धागे की मानक मुहर का डिजाइन संशोधित कर दिया गया है और यह संशोधित डिजाइन, जिसका विवरण तथा सम्बद्ध भारतीय मानक की संख्या और वर्ष नीचे अनुसूची में दिया गया है, दिनांक 1988-01-01 से लागू होगा।

अनुसूची


क्र. सं. मानक मुहर का डिजाइन	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	मानक मुहर के डिजाइन का विवरण
(1)	(2)	(3)	(4)
1. IS : 171 	सूती तथा सूत पुनर्जनित सेल्यूलोसी रेशा मिश्रित धूसर धागा	IS : 171—1985	स्तम्भ (2) में दिखाई गई निश्चित शैली और परस्पर सम्बद्ध अनुपात में बनाया गया "ISI" प्रसारवृत्त भारतीय मानक ब्यूरो का मोनोग्राम, जिसमें भारतीय मानक की संख्या डिजाइन में दिखाए अनुसार मोनोग्राम के ऊपर प्रक्षिप्त हो।

[सी एम की/13 : 9]

क्र. प. परमेश्वर, महानिदेशक

S.O. 265.—In pursuance of sub-rule (2) of Rule 9 of the Bureau of Indian Standards Rules, 1937 it is hereby notified that in supersession of the then Ministry of Industry and Civil Supplies (Indian Standards Institution) notification number S.O. 234 dated 1975-01-01 published in the Gazette of India, Part II, Section-3, Sub-section(ii) dated 1975-01-25, the design of the Standard Mark for grey cotton yarn has been revised and the revised design of the Standard Mark, together with the number and year of the relevant Indian Standard and description of the design as given in the following schedule, shall come into force with effect from 1988-01-01:

SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. & Year of the Relevant Indian Standard	Description of the Design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1. IS : 117		Cotton and Cotton regenerated cellulosic fibre blended grey yarn	IS: 171—1985	The monogram of the Bureau of Indian Standards, consisting of letters 'ISI' drawn in the exact style and relative proportions as indicated in C.I. (2): the number of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.

[CMD/13 : 9]

K.R. PARAMESVAR, Director General

अवकाश प्रमाणपत्र

नई दिल्ली, 16 जनवरी, 1989

का. प्र. 266—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रकृत शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार अनुभाग अधिकारी श्री पी. कुरुवासामी, को दिनांक 19 जनवरी 1989 से प्रगता धारित जारी होने तक उत्प्रवास संरक्षी, मद्रास के रूप में नियुक्त करती है।

[सं. ए - 22012(1)/89 - उ. प्र. - 1]

एस. सी. शर्मा, प्रवर सचिव

MINISTRY OF LABOUR

New Delhi, the 16th January, 1989

S.O. 266.—In exercise of the powers conferred by Section 3, sub-section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri P. Karuppesamy, Section Officer as Protector of Emigrants, Madras, with effect from 19th January, 1989 till further orders.

[No. A-22012/1/89-Emig.]
S. C. SHARMA, Under Secy.

नई दिल्ली, 4 जनवरी, 1989

का. प्र. 267—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबंधन के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 4th January, 1989

S.O. 267.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

(Reference No. COIT-2/45 of 1986)

PARTIES :

Employers in relation to the Management of Reserve Bank of India

AND

Their Workmen

APPEARANCES :

For the Employer : Shri K. A. Najmi, Asstt. Legal Adviser.

For the Workmen : Shri J. Y. Bhawe, Vice-President, Reserve Bank Workers' Organisation, Bombay.

STATE : Maharashtra.

INDUSTRY : Banking.

Bombay, the 19th September, 1988

AWARD

The Central Government by their Order No. L-12011/89/85-D.II(A) dated 7-10-1986 has referred the following industrial dispute for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 :—

"Whether the action of the management of Reserve Bank of India in relation to its Banker Training College at Bombay in not classifying the Hostel Supervisor as 'Workmen' under the provisions of the Industrial Disputes Act, 1947 considering the nature of duties performed by him, and thereby denying the benefits to him of 8 hours duty, weekly rest, National and Bank Holidays etc. is justified? If not, what relief the workman concerned is entitled to?"

2. The case of the Reserve Bank Workers Organisation as disclosed from its statement of claim (Ex. 2/W) in short is thus :—

The Reserve Bank Workers Organisation is a registered trade Union registered under the Indian Trade Union Act, 1926, and represents the Class III workman Staff of the Reserve Bank of India at Bombay, and the Hostel Supervisor as a Clause in this particular case. The Reserve Bank of India is running a training College at Bombay for training its own Officers as well as Officers of the Commercial Banks etc. This College has got a Hostel. The Hostel Supervisor is drawn from the Class III staff of the Bank, and he is required to attend to the duties as detailed in annexure 'A' appended to the statement of claim. In substance these duties are thus :—

- (i) Upkeep of the Hostel and all the arrangements connected therewith, maintenance of different registers, supervision of the work of Hostel staff which included cook, Head Cook, Mazdoors, Sweepers, Electrician, Security Guards etc., Clerical work relating to the Hostel Staff, i.e. writing of Muster for the three shifts, to prepare statement of daily engagement of casual labourers etc. The other work of the Hostel Supervisor is thus :—
- (ii) Looking after catering arrangements etc. in the absence of catering supervisor, to work as Caretaker for College, the Hostel, the Single Room Officers' flat and Guest Rooms, and to do some other duties, such as to look after the Fire Control arrangement, receive telegrams after office hours and hand over to the office, to make chair arrangement in the class rooms as per the instructions from the Programme Director etc.
- (iii) The Hostel Supervisor has long duration of the duties which start from 6.00 A.M. in the morning to 10.00 p.m. at night, and also thereafter in case trainees, Guests etc. arrive or depart thereafter. Under the guise of essential duties performed by the Hostel Supervisor, he is deprived of the weekly off, Bank Holidays, National Holidays etc. as enjoyed by all the other workmen as well as non-workmen staff of the Bank. In case the Hostel Supervisor remains absent on any of these days on the ground of his private work, illness etc. he is required to apply for leave on those holidays. The Hostel Supervisor has been classified as a Class III workman under various awards and settlements, and as such his service conditions are governed by these awards and settlements. The Hostel Supervisor is required to perform extra duty of seven hours on week days, 10½ hours on Saturdays and 14½ hours on Sundays and Bank Holidays. The allowance paid to the Hostel Supervisor or Rs. 150/- p.m. on pro-rata basis upto 30th June, 1983, which has been revised at Rs. 225/- p.m. from 1-7-1983, is too inadequate considering the long duration of duty and the various types of duties he is required to perform per day.
- (iv) Firstly an industrial dispute was raised before the Assistant Labour Commissioner (C) by the said organisation. However, the conciliation proceedings failed. Hence the Central Government made the reference as above, regarding the industrial dispute to this Tribunal.

3. The Management of the Reserve Bank of India by its written statement (Ex. 4/M) denied all the allegations made by the said organisation in its statement of claim, and in substance contended thus :—

- (i) The nature of work attached to the post of Hostel Supervisor is essentially supervisory in character and the emoluments of the said post are more than

Rs. 1600/- per month. Therefore, the Hostel Supervisor is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act. Any disputes concerning a person who is not a workman within the meaning of the Industrial Disputes Act cannot be said to be an industrial dispute within the meaning of Section 2(k) of the said Act. Therefore, this Tribunal is not competent to adjudicate upon the reference made to it by the Government, as it does relate to an industrial dispute. The dispute in question is limited to the terms and conditions of service of an individual employee, namely, Hostel Supervisor, whose terms and conditions of service or the nature of duties are not similar to the terms and conditions of service of the members of the Reserve Bank Workers' Organisation which has espoused the dispute. Therefore, the said organisation and its members cannot be said to have any community of interest in the dispute in question, and the espousal of the dispute by that organisation cannot make the individual dispute to be an industrial dispute within the meaning of Section 2(k) of the Industrial Disputes Act. Further the said organisation of the Bank workers has no representative character as it does not have a substantial membership of the Class III employees of the Bank. The majority of Class III employees of the Bank are represented by All India Reserve Bank Employees' Association. Therefore, the said organisation is not competent to espouse the cause of the above Hostel Supervisor.

- (ii) The management of the Bank further contended thus :—

The terms and conditions of service, such as, hours of duty, leave etc. are essentially a matter of contract of employment governed under the relevant contracts, settlements and awards. The post of Hostel Supervisor was created in 1961, and the conditions of service relating to uncertain duty hours and non-availability of weekly rests and other public holidays have been in force ever since the post was created. Subsequent to creation of this post there have been two Awards, namely, Aiyar Award and Dighe Award regarding the conditions of service of all the Class III employees including the Hostel Supervisor. The Reserve Bank Workers Organisation which has espoused this dispute was represented when the settlements with the recognised Association was reached. The conditions of service of the Hostel Supervisor have not been changed under the Aiyar Award. Considering the nature of the work, the Hostel Supervisor has been paid, under the Awards and Settlements, special allowance to compensate him for the uncertain duty hours and non-availability of weekly rests etc. These conditions having stood the test of time for over three decades, cannot now be agitated by the said organisation, which shall not have a representative character. The said organisation and the Hostel Supervisor are estopped from raising a dispute of the present nature.

- (iii) The management then further contended thus:—The appointment of a person to the post of Hostel Supervisor is done from out of a panel prepared in that respect. The panel is prepared by calling applications from intending Class III employees of the Bank, and after following the usual selection procedure. The appointments are generally done for a period of three years. The selected employee takes up the job of Hostel Supervisor voluntarily and willingly, being fully aware of the nature of duties required to be discharged by him. The Hostel Supervisor is provided with residential accommodation on rent free basis in the College premises in the heart of the city. He is further entitled for the use of electricity upto 40 units per month free of costs and he is also provided with residential telephone with direct dialing facility. Besides these facilities he is eligible for a special allowance of Rs. 225 p.m., which is granted as a monetary compensation for the uncertain duty hours and absence of weekly rests and holidays etc. The Hostel Supervisor does not have long duration of duties. He used to work only intermittently between

6.00 A.M. and 10.00 P.M. and has got enough time and opportunity for rest and recreation at his residence located within the premises of the Training College, and he can attend to his domestic duties. Further, when the College is closed for vacation and when there are no courses/seminars, the Hostel Supervisor has hardly any work to attend to.

(iv) The duties of the Hostel Supervisor are to supervise over the members of Class IV staff attending to the cleaning and upkeep of the rooms, furniture and linen provided therein. Normally, the Hostel Attendant receives the officers arriving for training and the Hostel Supervisor is only to supervise the work of the Hostel Attendant. As per the provisions of the Desai Award, the employees are to be compensated for extra work rendered by them by paying suitable special pay or allowance per month. Accordingly the Hostel Supervisor is being paid a special allowance of Rs. 225 per month now.

(v) The list of duties stated in the statement of claim relates to the upkeep of hostel and all arrangements connected therewith, which is the substance of the duty. The maintenance of registers etc. is only incidental to the main work of supervising the upkeep of the hostel and all arrangements connected therewith. The Bank has appointed Catering Supervisors to attend to catering supervision work, and hence the Hostel Supervisor in practice does not attend to that work. The work of looking after Fire Control Arrangement etc. is a duty of casual nature, requiring the attention very rarely. The clerical work is done by some other members of class III employees and that work is supervised by the Hostel Supervisor. The management, therefore, lastly contended that the present dispute is devoid of any merit and the action of the management, after considering the nature of duties performed by the Hostel Supervisor in denying the benefits of fixed eight hours, weekly rest, holidays etc., is fully justified, and it lastly prayed for the rejection of the different contentions raised by the said organisation, and to pass the award in favour of the management.

4. On these pleadings the necessary issues have been framed at Ex. 8. Those Issues, and my findings are thus :—

ISSUES	FINDINGS
1. Whether the Hostel Supervisor is not a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947?	Yes. He is not a workman.
2. Whether the dispute in question cannot be styled as an industrial dispute?	No. It can be styled.
3. What is the effect of Awards and settlements on the conditions of service of a Hostel Supervisor?	Binding on the parties until set aside.
4. Whether the Reserve Bank Workers' Organisation is not a proper and valid Union to plead the cause of the present workman - Hostel Supervisor?	No. It is a valid Union.
5. Whether the terms and conditions of the post of a Hostel Supervisor are based upon a contract of employment?	Yes
5A. Whether the Reference in question made by the Government is sustainable in law?	Yes
6. Whether the action of the management of the Reserve Bank of India in denying the benefit of eight hours duty, weekly rest etc. to a Hostel Supervisor, is justifiable?	
7. If not, to what relief he is entitled?	Does not survive
8. What Award.	Award accordingly.

REASONS

4A. In this reference matter, Shri Waman Baburao Shinde, the employee of the said Bank who was working as a Hostel Supervisor in 1982-83, was examined as a witness on behalf of the Reserve Bank Workers' Organisation. Shri C. K. Naik, Assistant Accounts Officer, Bankers Training College, was examined on behalf of the management of the said Bank. Both these witnesses filed their affidavits in support of their respective allegations and contentions. Both these witnesses were cross-examined on behalf of the other side.

ISSUE NO. 1

5. According to the Management, the Hostel Supervisor in question is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act. According to the Workers' Organisation he is a workman. Under Section 2(s) of the said Act, a 'workman' means any workman employed in any industry to do any manual, unskilled, skilled, technical, operation, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied. Under this Section, any person who is employed in a supervisory capacity, draws wages exceeding Rs. 1600 per month is not included in the term of 'workman'. The nature of duties allotted to the Hostel Supervisor has been mentioned by the Workers' Organisation in its statement of claim. It will be seen from this annexure (Ex. 3/W) that the duties of Hostel Supervisor are the upkeep of the Hostel and all arrangements connected therewith. He has to supervise the work of Hostel Staff which includes 14 categories, such as Head Cook, Cook, Head Mazdoor, Mazdoors, Electrician, Security Guards etc. He has also to look after the catering arrangements etc. in the absence of catering supervisor. He has also to work as Caretaker for College, the Hostel, the single room officers' flats and guest rooms. As per this annexure Ex. 3/W, the Hostel Supervisor has also to maintain nine registers, such as, Cleaning material, Electric goods, Glass Work Record, Re-cleaning and Polishing Record etc. From the evidence and the material on record, I find that the main work of a Hostel Supervisor is to supervise the Hostel Staff, and the work of maintaining registers etc., i.e. the clerical work is incidental to his supervisory work, and hence the Hostel Supervisor cannot be termed as a workman within the meaning of definition of 'workman' under the Industrial Disputes Act. Further, the wages of Hostel Supervisor exceeds Rs. 1600. It will be seen from the evidence of Shri C. K. Naik, the witness for the management, that the total emoluments of the said Hostel Supervisor in 1982 were more than Rs. 3000. It is seen from the cross-examination of the Hostel Supervisor Shri Shinde that he was performing the duties through the assistance of Head Mazdoors, Mazdoors, Sweepers, Electricians etc. and there were more than 30 persons assisting in his work, and that about 70 persons were assisting him, and as such the supervisory work was mainly to supervise the work of the said assistants. Therefore, as the main functions of the Hostel Supervisor was of supervisory nature and his wages exceeded Rs. 1600, he cannot be styled as a workman, within the meaning of Section 2(s) of the Industrial Disputes Act. Issue No. 1 is answered in the affirmative i.e. the Hostel Supervisor is not a workman.

ISSUE NO. 2

6. According to the management, as the Hostel Supervisor is not a workman, no industrial dispute as such existed between the workman and the management. Under Section 2(k) of the said Act, an 'industrial dispute' means any dispute or difference between employers and employees, or between employers and workman, or between workmen and workman which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. Therefore, even though the dispute in the present case is not between the employer and the workmen, it is a dispute in connection with the terms of employment of any other persons within the meaning of Section 2(k) of the Act. Therefore, I find that the dispute in question can be styled as an industrial dispute. Issue No. 2 is found the negative, i.e. the dispute in question can be styled as an industrial dispute.

ISSUE NO. 3

7. According to the management, the terms and conditions of the employees of the said Bank are governed by the different Awards and Settlements between the management and the Unions. Now, unless these Awards and Settlements have been set aside by giving the necessary notice by one party to the other, the effect of the Awards and the settlements will continue. Therefore, the finding on issue No. 3 is that the conditions of service of the Hostel Supervisor will continue until the Awards and Settlements in question have been set aside.

ISSUE NO. 4

8. According to the management, the present dispute is espoused by the Reserve Bank Workers' Organisation, which has no representative character, and therefore there is no valid espousal to convert an individual dispute of a Hostel Supervisor into an industrial dispute. It is not disputed that the Reserve Bank Workers' Organisation is a registered trade union. It is true that this organisation has no majority membership of the employees of the Bank and the number of the members of the said Union is less than half. Even then I find that, as it is a registered trade union of the Bank employees, it is competent to espouse the cause on behalf of some of the employees of the Bank. The answer on issue No. 4 is in the negative.

ISSUE NO. 5

9. According to the management, the terms and conditions of the post of Hostel Supervisor are based upon a contract of employment. It will be seen from the record that the employees Shri Shinde had applied for the post of Hostel Supervisor, that he was interviewed and was then selected for the post of Hostel Supervisor, and later on an appointment letter was issued to him. In that letter, the terms and conditions of his appointment for the said post, were also mentioned, i.e. he was to get rent free quarters, was allowed to use electricity upto 40 units per month without any charges, was to get a special pay of Rs. 150 per month etc. The list of duties to be performed by him as a Hostel Supervisor was also annexed with the letter of appointment. These duties show that the nature of his work was mainly of supervisory nature. The employee Shri Shinde by accepting the said post, and accepting the said terms and conditions of the said post. Therefore, I find that the terms and conditions of the post of Hostel Supervisor are based upon a contract of employment. Issue No. 5 is found in the affirmative.

ISSUE NO. 5A

10. According to the management, the reference made by the Central Government is not tenable in law, as the said employee is not a workman within the meaning of Industrial Disputes Act, and no industrial dispute as such, existed between the parties. However, under Section 10(1)(d) of the said Act, where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing refer the dispute to a Tribunal for adjudication. In the present case, as noted above an industrial dispute existed between the parties. It was also apprehended. The Central Government was, therefore, justified in referring the said industrial dispute for adjudication to this Tribunal, and the reference in question is sustainable in law. Issue No. 5A is found in the affirmative.

ISSUE NO. 6

11. This is the main issue in question in this reference matter, and the above said issues related to technical pleas raised by the parties in this proceeding. According to the Reserve Bank Workers' Organisation, the action taken by the management of Reserve Bank of India in denying the benefit of eight hours duty, to weekly rest, National and Bank holidays etc. to the Hostel Supervisor is not justified. I find that it is justified. There is no dispute on the following points :—

The post of Hostel Supervisor was created in 1961, and the conditions of service and uncertain duty hours, and

non-availability of weekly rest and other public holidays have been in force since that post was created. Subsequent to the creation of this post, there have been two awards, namely, Ayyar Award and Dighe Award regarding the conditions of service of all the Class III employees and the Hostel Supervisor. As pointed out by the management in its written statement, the present Workers' Organisation was represented before the authorities concerned when settlements were arrived at with the recognised Employees' Association. The conditions of service of Hostel Supervisor have not been changed under the Ayyar Award. Taking into consideration the nature and the duty hours of Hostel Supervisor, he has been granted special allowance under the said Awards and the settlement. Initially, the special allowance of Rs. 50/- per month was paid to the Hostel Supervisor and it was then increased to Rs. 150 per month under Dighe Award from the year 1978, and thereafter it has been increased to Rs. 225 per month. Thus at present the Hostel Supervisor is getting Special Allowance of Rs. 225 per month.

Further, the appointment to the post of Hostel Supervisor is made by inviting applications from Class II₁ employees of the Bank. It is an admitted fact that the Hostel Supervisor Shri Shinde had applied for the said post in 1978, that he was interviewed and selected for the post and thereafter he was appointed as a Hostel Supervisor. At the time of his appointment, a list of duties to be performed by him was annexed to his appointment letter. In fact the employee is fully aware of the nature of duties to be performed by him, if appointed as a Hostel Supervisor. Thus, the Hostel Supervisor accepts that post voluntarily and willingly. It is not that the Bank employee is required or compelled to perform duties of a Hostel Supervisor against his will and desire. In addition to the special allowance of Rs. 225/- per month, the Hostel Supervisor is also provided with residential accommodation on rent free basis in the premises of the Bankers' college, he is also allowed to make use of electricity up to 40 units per month free of cost, and he is also provided with residential telephone with direct dialing facilities. Therefore, taking into consideration these benefits given to the Hostel Supervisor, it cannot be said that the Bank is unjustified in denying the weekly rest and Bank Holidays etc. to the Hostel Supervisor. It is true that the Hostel Supervisor is required to work from 6 A.M. to 10 P.M., and as such, his duty hours exceed much more than duty hours of other Bank employees. However, taking into consideration the nature of duties to be performed by him, it cannot be said that he is required to work physically from 6 A.M. to 10 P.M. continuously without any break. I find that he is required to work during the said period as and when required, and not continuously for 15 hours a day. Further, when the College closes for the vacation, he is not required to do any work. Therefore, even though no overtime is paid to the Hostel Supervisor for the work done beyond usual duty hours, as he is paid special allowance of Rs. 225 per month now, and as he is given other facilities as above, it cannot be said that the action of the management in denying eight hours duty, weekly rest, National and other Bank holidays to him is unjustified. Issue No. 6 is therefore answered in the affirmative.

ISSUE NO. 7

13. As the above said issue No. 6 has been found in favour of the Bank management and against the Hostel Supervisor, Issue No. 7 does not survive and he is not entitled to any further relief. Issue No. 7 is answered accordingly.

ISSUE NO. 8

14. In the result, the Award must be, and is drawn accordingly.

P. D. APSHANKAR, Presiding Officer
[No. L-12011(89)/85-D, II-A/D, I.B]

नई दिल्ली, 5 जनवरी, 1989

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

का. आ. 268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ मद्रा, कलकत्ता के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कलकत्ता के पंचपट को प्रकाशित करती है।

New Delhi, the 5th January, 1989

S.O. 268.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Madura, Calcutta and their workmen.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
AT CALCUTTA

Reference No. 14 of 1985

PARTIES :

Employers in relation to the management of Bank of Madura, Calcutta.

AND

Their workmen.

APPEARANCES :

On behalf of Employer : T. K. Jagdish, Advocate with Mr. Lakshaman, Regional Manager.

On behalf of Workman : Mr. Sanat Khan, General Secy.
STATE : West Bengal INDUSTRY : Coal

AWARD

By Order No. L-12012/29/84/D. IV(A) dated 26th April, 1985, the Government of India, in the Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Madura Ltd., Calcutta in not confirming Sh. Prem Chand Soni in the post of Head Cashier/Special Asst. with retrospective effect and not promoting him to the officer cadre after conducting promotion test, is justified? If not, to what relief is the workman concerned entitled?"

2. The case is called out out of turn on the prayer of both parties although the case was fixed for hearing on 26-10-1988. Mr. Jagdish, the learned advocate of the management and Mr. Khan, the General Secretary of the Union, file a joint petition of compromise duly signed by both parties and pray for an Award in terms of the joint petition of compromise. Considered the joint petition of compromise and also the submissions made by both the be fair, reasonable and to the best interest of both the parties, I accept the same and pass an 'Award' in terms of the petition of compromise which do form part of this Award as Annexure 'A'.

This is my Award.

Dated, Calcutta,
the 6th October, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-12012/29/84-D. IV-A/D. I.B.]

PADMA VENKATACHALAM, Dy. Secy.

166 GI/89—3.

In the matter of Ref. No. 14 of 1985

And

In the matter of an Industrial Dispute under the Government of India (Ministry of Labour) Order of Reference No. L. 12012/29/84/D-IV(A) dt. 26-4-85.

BETWEEN

M/s. Bank of Madura Ltd. 19, Synagogue Street,
Calcutta-700001. Employer

AND

Their Workman.

Represented by Bank of Madura Employees Association

19, Synagogue Street, Calcutta-700001 ..Workmen
The Humble Joint Petition of Compromise :

On behalf of the parties named above.

Most Respectfully Sheweth :

(1). That adjudication proceedings under the above order of Reference are pending before this Hon'ble Tribunal.

(2) That the subject matter of the Reference has been amicably settled between the parties out of court.

(3) That the terms of mutual settlement are :

(a) The concerned workman Shri P.C. Soni will stand promoted to the position of an officer in the Bank in the Junior Management Grade Scale I i.e. Rs. 1175/- to Rs. 2675/- with effect from 1-8-88.

(b) The basic Salary of Sri P. C. Soni effective from 1-8-88 in the above scale will be Rs. 1755/- after (i) giving weightage from February 1980, (ii) giving due increment for having passed CAIB Part-I in the year 1982. His next increment in the scale will be due to him on 1-2-89.

(c) Sri P. C. Soni will not have any claim for any arrears of salary or other allowances or perquisites for his non promotion in February 1980 thereafter till 1-8-88.

(d) As a special case and at his request, Sri P. C. Soni will be allowed to avail his chance of getting Housing Loan when his turn comes in the waiting list for clerks and as such he will be eligible only to the maximum extent of Housing Loan available to a "Clerk" under the Housing Loan Scheme of the Bank.

(e) This settles fully and finally the Industrial Dispute referred for adjudication by the Hon'ble Tribunal.

4. That in view of the above compromise the parties do not desire to proceed in the matter any further.

In these circumstances it is humbly prayed that your Lordship may kindly be pleased to approve the above terms of mutual compromise and to dispose

of the Reference by passing an Award in terms of this Joint Petition of Compromise.

And for this act of kindness your petitioners, as in duty bound shall ever pray.

For Bank of Madura Ltd.

Sd/-

(MR. LAKSHMANAN),
Regional Manager

Sd/-

(T. K. JAGADEESH),

Advocate for the Bank

For Bank of Madura Employees Association

Sd/-

(SANAT KHAN),
General Secretary.

Sd/-

(P. C. SONI),
Concerned Workman

Calcutta.

Dated the 6th October, 1988.

नई दिल्ली, 13 जनवरी, 1989

का. धा. 269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रोजेक्ट डायरेक्टर, एन. ए. पी. पी., नरोड़ा के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार | औद्योगिक अधिकरण, नई दिल्ली के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-89 को प्राप्त हुआ था।

New Delhi, the 13th January, 1989

S.O. 269.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Project Director, N.A.P.P. Narora and their workmen, which was received by the Central Government on the 5-1-89.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. No. 9/87

In the matter of dispute between :

Shri Tula Ram through the President,

Narora Parmanu Vidyut Pariyogna Karamchhari
Union,

A-5/1, P.O. Narora Atomic Power Project Town-
ship, Narora, Distt. Bullandshehr-202389

Versus

The Project Director, N.A.P.P.,

Narora, Distt. Bullandshehr,

APPEARANCES :

Shri S. N. Gupta—for the workman.

Shri Sat Pal with Shri J. C. Verma—for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. 32(3)/86-Con. II/D-II(B dated January, 1987 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the demand of President, Narora Parmanu Vidyut Pariyogna Karamchhari Union that Shri Tula Ram be reinstated and regularised from the date of his juniors have been regularised by the management of Project Director, N.A.P.P., Distt. Bullandshehr is justified? If so to what relief the workman concerned entitled to?"

2. The case of the workman as per his statement of claim is that he started serving the Management w.e.f. 28-6-82 as a daily rated casual worker and he worked in the electric department, T.G. Erection and in the Account Section. His services were terminated on 7-5-84 when he had completed 308 days of work without any notice or notice pay or retrenchment compensation. On representation made by him through his union, he was allowed to work w.e.f. 1-4-85 till his services were terminated again on 16-9-85 without any notice or notice pay or any retrenchment compensation. There were juniors working with the Management in the same category and they were regularised w.e.f. 1-8-85 but the workman was not regularised inspite of demands. The workman has challenged his termination on the grounds that it is violative of the provisions of Section 25F of the I.D. Act; that it is arbitrary and as an act of victimisation, malafides and vindictiveness. Hence he has prayed for reinstatement with continuity of service and with full back wages.

3. The Management in its written statement submitted that the workman was engaged on 28-6-83 as a work charged daily rated casual employee in the capacity of mate in the electrical section where he worked upto 9-8-83 then he worked in Turbo-Generator Erection Section from 10-8-83 to 6-2-84 after appearing before a selection committee for casual labour employees engaged for the purpose. On 6-2-84 he abandoned his job and appeared before a selection committee for selection and appointment against casual vacancies of daily rated helpers in unskilled category in the electrical section where he worked from 7-2-84 to 6-5-84. Again on 1-4-85 he presented himself for selection of Mates in the Electrical Section and worked there from 1-4-85 to 25-5-85. On 16-5-85 he presented himself for a purely temporary post of Mistry in the work charged establishment in the account section and worked there from 16-5-85 to 16-9-85. On completion of the job his services were not required and there was no question of any retrenchment or any notice or payment of notice pay etc. There is no question of juniority and seniority as the petitioner had worked in different sections in various capacities on his own accord and on different rates of wages for specified period of work on daily rate/casual basis in the work charged establishment.

4. As can be seen, there is no dispute between the parties regarding the periods of employment of the workman. There are two separate periods of employment, one from 28-6-83 to 6-5-84 and the second from 1-4-85 to 16-9-85. There is break of 10 months and 25 days during the period from 7-5-84 to 31-3-85. It is a very long break and it cannot be regarded as an artificial break. The contention of the Management is that the workman abandoned his employment w.e.f. 7-5-84 and it appears to be a case of abandonment because no cogent explanation is forthcoming from the workman for his absence for a period from 7-5-84 to 31-3-85. No doubt in the earlier spell of his employment from 28-6-83 to 6-5-84 the workman had put in one year's continuous service as defined in section 25-B of the I.D. Act (hereinafter referred to as the Act) and he could have claimed the benefit of the provisions of section 25-F of the Act but he did not do so at that time and by rejoining the employment of the Management w.e.f. 1-4-1985 he is presumed to have waived his earlier claim. During his second

spell of employment he has put in only 141 working days as per details given below :

April, 85	24 days Ex. M-26
May	14 days Ex. M-28
June	30 days Ex. M-28A
July	26 days Ex. M-29
August	31 days Ex. M-30
September	16 days Ex. M-32

141 days

For the purpose of one year's continuous service as per Section 25-B, the working days during the 12 calendar months preceeding the date of termination have to be taken into consideration. In the present case the period would be from 17-9-84 to 16-9-85. As the workman had put in only 141 working days during this period, he cannot be said to have put in one year's of continuous service in terms of section 25-B and therefore, the protection of Section 25-F is not available to him. Hence there is no violation of the provisions of Section 25-F of the I.D. Act in this case.

5. As regards the demand of the Union for regularisation of the workman from the date of his juniors have been regularised, it may straightway be noted that the Act does not ipso facto confer any right on any workman to regularisation of his services. The Management has explained that the workman was not considered for regularisation because he was not on their muster roll when the formalities of preparing the list of casual labour/obligation screening etc. were taken. A suggestion was made to MW-1 Shri Abdul Wahid Khan on behalf of the workman that there was a circular by the Management according to which the casual workers who were on muster roll as on 1-8-83 would be regularised and the witness stated that he was not aware of any such circular. However, the workman has not been able to produce any such circular. The Management has placed on record a statement showing the details of the candidates working on daily rates to be interviewed for appointment in the Industrial Temporary Establishment (Ex. M-33) which goes to show that the test date was 1-5-85. Working days put in by the workman as on 1-5-85 were taken into consideration. As already observed the workman had not put in any work during the period from 7-5-84 to 31-3-85. The workman has not been able to produce any evidence to substantiate his allegations of any malafides or discrimination or victimisation on the part of the Management. Apparently there was no reason for the Management to victimise him because he is not shown to be involved in any union activities and rather the Management would have a soft corner for him as his brother Mr. B. S. Sharma is admitted to be a regular employee in the Accounts Section of the Management.

6. In view of the discussion made above, this reference is answered in favour of the Management and against the workman and it is held that the workman is not entitled of any relief.

13th December, 1988.

G. S. KALRA, Presiding Officer

[No. 32/3/86-Com.II/D.II(B)]

HARI SINGH, Desk Officer

नई दिल्ली, 16 जनवरी, 1989

का. आ. 270.—यस: मैसर्स फोरबन टर्म्स एंड ट्रांसपोर्ट सर्विसेस लि., 19-जे. एन. हरिद्वार मार्ग, बेल्टेड इस्टेट, बम्बई-400033 और इसके बंगलौर, सिकन्दराबाद, मद्रास, नई दिल्ली, जालंधर, मुंबई, वाराणसी और बड़ोही स्थित शाखाएँ। (इसके आगे जहाँ कहीं भी उक्त स्थापना शब्द का प्रयोग हो इससे अभिप्राय उक्त स्थापना से है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (इसके आगे उक्त अधिनियम के नाम से निर्दिष्ट) को धारा 17 की उपधारा (1) के खंड (क) के अंतर्गत छूट प्राप्त करने के लिए आवेदन किया है।

यह केन्द्र सरकार की राय में उक्त स्थापना के कर्मचारियों के लिए तैयार किए गए भविष्य निधि नियमों में अंगदान की दर उक्त अधिनियम की धारा 6 में उल्लिखित कर्मचारी अंगदान की दर से कम नहीं है तथा इसके कर्मचारियों को मिलने वाले भविष्य निधि लाभ उक्त अधिनियम तथा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके आगे जहाँ कहीं भी स्कीम शब्द का प्रयोग किया गया है उससे अभिप्राय उक्त स्कीम से है) में उल्लिखित लाभों से किसी भी प्रकार से कम नहीं है जो इन वर्ग की स्थापनाओं में कार्यरत कर्मचारियों को उपलब्ध है।

अब इसलिए उक्त अधिनियम की धारा 17 की उपधारा एक के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और संलग्न अनुसूची में वर्णित शर्तों के अधीन केन्द्रीय सरकार इसके द्वारा उक्त स्थापना को उक्त स्कीम के सभी उपबन्धों के लागू होने से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोजता केन्द्रीय सरकार के द्वारा समय समय पर किए गए निदेश के अनुसार उक्त अधिनियम की धारा 17 की उपधारा (3) के खंड (क) में उल्लिखित निरीक्षण के लिए सुविधाएं प्रदान करेगा और ऐसे निरीक्षण प्रभार की अदायगी प्रत्येक माह की समाप्ति के 15 दिन के अन्दर करेगा।

2. न छूट प्राप्त स्थापनाओं के संघ में उक्त अधिनियम प्रारंभ होने के अधीन सृजित उक्त स्कीम के अंतर्गत देय अंगदान के दर से स्थापना के भविष्य निधि नियमों के अंतर्गत देय अंगदान की दर किसी समय से कम न होगा।

3. पेशगियों के मामले में छूट प्राप्त स्थापना की स्कीम कर्मचारी भविष्य निधि स्कीम, 1952 से कम हितकर नहीं होगी।

4. उक्त स्कीम में कोई भी संगोपन जो स्थापना के वर्तमान निर्यात से अधिक लाभकारी है उन पर अपने आप लागू किया जाएगा। उक्त स्थापना के भविष्य निधि नियमों में कोई भी संगोपन, क्षेत्रीय मंत्रालय द्वारा प्रायुक्त की पूर्व अनुमति के बغير नहीं किया जाएगा और जहाँ किसी संगोपन से उक्त स्थापना के कर्मचारियों के हित के प्रतिकूल प्रभावशी होने की संभावना है वहाँ अपनी अनुमति देने से पूर्व, क्षेत्रीय भविष्य निधि प्रायुक्त, कर्मचारियों को अपने विचार प्रस्तुत करने का उचित अवसर देगा।

5. यदि स्थापना को छूट न दी जाती तो वे सभी कर्मचारी (जो उक्त अधिनियम की धारा 2(ब) में निश्चित किया गया है) जो सदस्य बनने के पात्र हों, सदस्य बनाए जाएंगे।

6. जहाँ एक कर्मचारी जो कर्मचारी भविष्य निधि (कानूनी) या किसी अन्य छूट-प्राप्त स्थापना का पहले से सदस्य है, को अपनी स्थापना में काम पर लगाया जाता है तो नियोजता उसे निधि का तुरन्त सदस्य बनाएगा, और ऐसे कर्मचारी के पिछले नियोजता के पास भविष्य निधि क्षेत्र में संघों को अंतरित कराने और उसके क्षेत्र में जमा कराने की व्यवस्था करेगा।

7. केन्द्रीय भविष्य निधि प्रायुक्त के द्वारा प्रेषित केन्द्रीय सरकार के द्वारा जैसे भी मामला हो, समय समय पर दिए गए निर्देशों के अनुसार भविष्य निधि के प्रबन्ध के लिए नियोजता न्यासी बोर्ड को स्थापित करेगा।

8. भविष्य निधि, न्यासी बोर्ड में निहित होगा जो अन्य बातों के होते हुए भविष्य निधि में आय के उचित लेखों और भविष्य निधि से अदायगियों और उनकी अभिरक्षा में शेषी के लिए कर्मचारी भविष्य निधि संगठन के उत्तरदायी होगा।

9. न्यासी बोर्ड कम से कम 3 माह में एक बार बैठक करेगा और केन्द्र सरकार द्वारा समय समय पर जारी किए गए मार्ग निर्देशों के अनुसार कार्य करेगा। केन्द्रीय भविष्य निधि प्रायुक्त को अधिकार होगा कि वह किसी अन्य योग्य लेखा परीक्षक से खातों की बुझा लेखा परीक्षा कराए और ऐसे पुनः लेखापरीक्षा के खर्च नियोजता वहन करेगा।

10. न्यासी बोर्ड द्वारा रखे गए भविष्य निधि लेखे अर्हता प्राप्त निष्पक्ष चाटेर्ड अकाउन्टेन्ट द्वारा वार्षिक लेखा परीक्षा के अध्यक्षीन होंगे। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य अर्हता प्राप्त लेखा-परीक्षक द्वारा लेखों की पुनः लेखा परीक्षा कराने का अधिकार होगा और इस पर हुमा व्यव नियोक्ता द्वारा वहन किया जाएगा।

11. प्रत्येक वर्ष स्थापना के लेखा परीक्षित तुलनपत्र के साथ लेखा-परीक्षित वार्षिक भविष्य निधि लेखों की एक प्रति वित्तीय वर्ष की समाप्ति के छः माह के अन्दर केन्द्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी। इस प्रयोजन के लिए भविष्य निधि का वित्तीय वर्ष पहली अप्रैल से 31 मार्च तक होगा।

12. नियोक्ता प्रतिमाह भविष्य निधि के देय अपने कर्मचारियों के अंशदानों की आगामी माह की 15 तारीख तक न्यासी बोर्ड को अंतरित कर देगा। अंशदानों की विलम्ब से अदायगी करने के लिए समान परिस्थितियों में नियोक्ता नुकसानी देने का उर्सा प्रकार उत्तरदायी होगा जिस प्रकार एक न छूट प्राप्त स्थापना उत्तरदायी होती है।

13. न्यासी बोर्ड सरकार द्वारा समय समय पर दिए गए निर्देशों के अनुसार निधि में जमा राशियों का निवेश करेगा। प्रतिभूतियां न्यासी बोर्ड के नाम पर प्राप्त की जाएगी और भारतीय रिजर्व बैंक के जमा नियंत्रण में अनुमूचित बैंक की अधिरक्षा में रखा जाएगा।

14. सरकार के निर्देशों के अनुसार निवेश न करने पर न्यासी बोर्ड अलग अलग रूप से और एक साथ केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधियों द्वारा लगाए गए अधिक प्रसार का उत्तरदायी होगा।

15. न्यासी बोर्ड एक वस्तु व्यौरा रजिस्टर तैयार करेगा और व्याज और विमोचन आय को समय पर वसूली सुनिश्चित करेगा।

16. जमा किए गए अंशदानों, निकाले गए और प्रत्येक कर्मचारी से संबंधित व्याज को दिखाने के लिए न्यासी बोर्ड विस्तृत लेखे तैयार करेगा।

17. वित्तीय/लेखा वर्ष की समाप्ति के छः माह के अन्दर बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण के स्थान पर पासबुक जारी कर सकता है। ये पास बुक कर्मचारियों की अधिरक्षा में रहेगी और कर्मचारियों के प्रस्तुतीकरण पर बोर्ड के द्वारा उन्हें अद्यतन किया जाएगा।

19. लेखा वर्ष के पहले दिन प्रावि शेष पर प्रत्येक कर्मचारी के लेखे में भ्राज उस दर से जमा किया जाएगा जिसका न्यासी बोर्ड निर्णय करे परन्तु यह उक्त स्कीम के पैरा 60 के अन्तर्गत केन्द्रीय सरकार द्वारा घोषित दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड केन्द्रीय सरकार द्वारा घोषित रद.अ. की दृष्टि से इस कारण से कि निवेश पर आय कम है या किसी अन्य कारण से अदा करने में असमर्थ है तो इस कमी को नियोक्ता पूरा करेगा।

21. नियोक्ता भविष्य निधि की चोरी के कारण, लूटखसोस व्ययानत, गबन अथवा किसी अन्य कारण से हुई हानि को पूरा करेगा।

22. नियोक्ता और न्यासी बोर्ड, केन्द्रीय भविष्य निधि आयुक्त को ऐसी विवरणियां प्रस्तुत करेगा जो समय समय पर केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त निर्धारित करें।

23. उक्त स्कीम के पैरा 69 की शैली पर किसी कर्मचारी को निधि के सवस्य न रहने पर यदि स्थापना के भविष्य निधि नियमों में नियोक्ताओं के अंशदानों को जम्न करने की व्यवस्था है तो न्यासी बोर्ड इस प्रकार

जम्न की गई राशियों का अलग से लेखा तैयार करेगा और उसे ऐसे प्रयोजनों के लिए उपयोग करेगा जो केन्द्रीय भविष्य निधि आयुक्त की पूर्व अनुमति से सुनिश्चित किया गया हो।

24. स्थापन के भविष्य निधि नियमों में निर्दिष्ट किसी बात के होते हुए भी यदि किसी व्यक्ति की सेवा निवृत्ति होने के फलस्वरूप या किसी अन्य प्रतिष्ठान में नौकरी करने पर निधि की सवस्यता समाप्त हो जाती है यह पता लगता है कि प्रतिष्ठान के भविष्य निधि नियमों के अन्तर्गत अंशदान की दर समपहरण की दर प्रावि साविधिक योजना के अन्तर्गत दी गई दरों की तुलना में कम अनुवृत्त है तो अन्तर का वहन नियोक्ता द्वारा किया जायेगा।

25. नियोक्ता, भविष्य निधि के प्रशासन से संबंधित सभी दृष्टि जिनमें लेखों के रखरखाव रिटर्न प्रस्तुत किए जाने, राशियों का अन्तरण शामिल है, वहन करेगा।

26. नियोक्ता समुचित प्राधिकारी द्वारा अनुमोदित निधि के नियमों की एक प्रति तथा जब भी कोई संशोधन होता है, उसकी मुख्य बातों की कर्मचारियों के बहुमत की भाषा में अनुवाद करके स्थापना के बोर्ड पर लगाएगा।

27. "समुचित सरकार" स्थापना की बालू छूट पर और शर्तें लगा सकती है।

28. यदि उक्त अधिनियम के अन्तर्गत स्थापना वर्ग जिसमें उसकी स्थापना आती है, पर अंशदान की दर बढ़ाई जाती है, नियोक्ता भविष्य निधि अंशदान की दर उचित रूप में बढ़ाएगा, ताकि उक्त अधिनियम के अन्तर्गत दिए जाने वाले लाभों से स्थापना की स्कीम के अन्तर्गत दिए जाने वाले भविष्य निधि के लाभ किसी भी प्रकार से कम न हों।

29. उक्त शर्तों में से किसी एक के उल्लंघन पर छूट रद्द की जा सकती है।

[संख्या ए.एन-35015(2)/89/स.मु.2]

New Delhi, the 16th January, 1989

S.O. 270.—Whereas Messrs Forvel Tours and Transport Services Ltd., 19, J. N. Heredia Marg, Ballard Estate, Bombay-38, with its Branches at Bangalore, Secundrabad, Madras, New Delhi, Jalandhar, Muradabad, Varanasi and Bhadehi, (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspec-

tion charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of section 17 of said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishments and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishment shall not be less favourable than the Employees Provident Fund Scheme, 1952.

4. Any amendment to the said scheme this is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically no amendment of the rules of the provident fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the said establishment, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

5. All employees [as defined in section 2(I) of the said Act] who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Fund Organisation inter-alia for proper accounts of the receipt into and payments from the Provident Fund and the balance in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or an officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from 1st of April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an unexempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the

name of the Board of Trustees and shall be kept in the custody of a Schedules Bank under the Credit Central of the Reserve Bank of India.

14. Failure to make the investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a scriat-wise register and ensure timely realisation of interest and ensure timely realisation of interest and redemption proceeds.

16. The Board Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of account to every employee within six months of the close of financial accounting year.

18. The Board may, instead of the annual statement of accounts, issue pass books to every employee. These pass books shall remain in the custody of the employees and will be brought up to date by the Board on presentation by the employees.

19. The account of each employee shall be credited interest calculated on the opening balance as on the 1st day of the accounting year at such date may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason, than the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be caused to the Provident Fund due to theft burglary, defalcation, mis-appropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employers' contribution in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the provident fund rules of the establishment, if on the cessation of any individual, from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution, rate of forfeiture etc. under the provident fund rules of the establishment are less favourable as compared to those under the statutory scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of Accounts submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended there-to alongwith a translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for containing exemption of the establishment.

28. The employee shall enhance the rate of provident fund contributions appropriately if the rate of provident fund

contribution for the class of establishments in which his establishment falls is enhanced under the said Act to that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35015(2)/89-SS-II]

का.प्र. 271.-यन: मैशर्म श्री बिस्मिल चिट फंड लिमिटेड 7/117, ओ.ए. स्ट्रीट, पालघाट-623107 रजिस्टर्ड ऑफिस और इसकी समितियाँ, कर्नाटक, केरल व पश्चिम बंगाल (इसके आग जहाँ कहीं भी उक्त स्थापना शब्द का प्रयोग हो इससे अधिनियम उक्त स्थापना से है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) इसके आगे उक्त अधिनियम के नाम से निर्दिष्ट की धारा 17 की उपधारा (1) के खंड (क) के अन्तर्गत छूट प्राप्त करने के लिए आवेदन किया है।

यह केन्द्र सरकार की राय में उक्त स्थापना के कर्मचारियों के लिए तैयार किए गए भविष्य निधि नियमों में अंशदान की दर उक्त अधिनियम की धारा 6 में उल्लिखित कर्मचारी अंशदान की दर से कम नहीं है तथा इसके कर्मचारियों की मिलने वाले भविष्य निधि लाभ उक्त अधिनियम तथा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके आगे जहाँ कहीं भी स्कीम शब्द का प्रयोग किया गया है उससे अधिनियम उक्त स्कीम से है) में उल्लिखित लाभों से किसी भी प्रकार से कम नहीं है जो इस वर्ग की स्थापनाओं में कार्यरत कर्मचारियों को उपलब्ध है।

अब इसलिए उक्त अधिनियम की धारा 17 की उपधारा एक के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और संलग्न अनुसूची में वर्णित शर्तों के अधीन केन्द्रीय सरकार इसके द्वारा उक्त स्थापना को उक्त स्कीम के सभी उपबन्धों के लागू होने से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोक्ता केन्द्र सरकार के द्वारा समय समय दिए गए निर्देश के अनुसार उक्त अधिनियम की धारा 17 की उपधारा (3) के खंड (क) में उल्लिखित निरीक्षण के लिए सुविधाएं प्रदान करेगा और ऐसे निरीक्षण प्रभार की अदायगी प्रत्येक माह की समाप्ति के 15 दिन के अन्दर करेगा।
2. न छूट प्राप्त स्थापनाओं के संबंध में उक्त अधिनियम और उसके अधीन सृजित उक्त स्कीम के अन्तर्गत वेय अंशदान के दर से स्थापना के भविष्य निधि नियमों के अन्तर्गत देय अंशदान का दर किसी समय भी कम न होगा।
3. पेशगियों के मामले में छूट प्राप्त स्थापना की स्कीम कर्मचारी भविष्य निधि स्कीम, 1952 से कम हितकर नहीं होगी।
4. उक्त स्कीम में कोई भी संशोधन जो स्थापना के वर्तमान नियमों से अधिक लाभकारी है उन पर अपने आप लागू किया जाएगा। उक्त स्थापना के भविष्य निधि नियमों में कोई भी संशोधन, क्षेत्रीय भविष्य निधि आयुक्त की पूर्ण अनुमति के बिना नहीं किया जाएगा और जहाँ किसी संशोधन से उक्त स्थापना के कर्मचारियों के हित के प्रतिकूल प्रभाव होने की संभावना है वहाँ अपनी अनुमति देने से पूर्व, क्षेत्रीय भविष्य निधि आयुक्त, कर्मचारियों को अपने विचार प्रस्तुत करने का उचित अवसर देगा।
5. यदि स्थापना को छूट न दी जाती तो वे सभी कर्मचारी [जो उक्त अधिनियम की धारा 2(ब) में निश्चित किया गया है] जो सदस्य बनने के पात्र होते, सदस्य बनाए जाएंगे।

6. जहाँ एक कर्मचारी जो कर्मचारी भविष्य निधि (कानूनी) या किसी अन्य छूट प्राप्त स्थापना का पहले से सदस्य है, को अपनी स्थापना में काम पर लगा जाता है तो नियोक्ता उसे निधि का तुर्गत सदस्य बनाएगा और ऐसे कर्मचारी के पिछले नियोक्ता के पास भविष्य निधि लेखों में संशोधनों को अंतरित कराने और उसके लेखों में जमा कराने की व्यवस्था करेगा।

7. केन्द्रीय भविष्य निधि आयुक्त के द्वारा अथवा केन्द्रीय सरकार के द्वारा जैसे भी मामला हो, समय समय पर दिए गए निर्देशों के अनुसार भविष्य निधि के प्रबंध के लिए नियोक्ता न्यासी बोर्ड की स्थापना करेगा।

8. भविष्य निधि, न्यासी बोर्ड में निहित होगा जो अन्य बातों के होते हुए भविष्य निधि में आय के उचित लेखों और भविष्य निधि से अदायगियों और उनको अभिरक्षा में शेषों के लिए कर्मचारी भविष्य निधि संगठन के उत्तरदायी होगा।

9. न्यासी बोर्ड कम से कम 3 माह में एक बार बैठक करेगा और केन्द्र सरकार द्वारा समय समय पर जारी किए गए मार्ग निर्देशों के अनुसार कार्य करेगा। केन्द्रीय भविष्य निधि आयुक्त को अधिकार होगा कि वह किसी अन्य योग्य लेखा परीक्षक के खातों को बुझा लेखा परीक्षा कराए और ऐसे पुनः लेखा परीक्षा के खर्च नियोक्ता वहन करेगा।

10. न्यासी बोर्ड द्वारा रखे गए भविष्य निधि लेखों अर्हता प्राप्त निष्पक्ष चाटई अकाउन्टेन्ट द्वारा वार्षिक लेखा परीक्षा के अधीन होंगे। जहाँ आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य अर्हता प्राप्त लेखा-परीक्षक द्वारा लेखों की पुनः लेखा परीक्षा कराने का अधिकार होगा और इस पर हुमा व्यय नियोक्ता द्वारा वहन किया जाएगा।

11. प्रत्येक वर्ष स्थापना के लेखा परीक्षित तुलन पत्र के साथ लेखापरीक्षित वार्षिक भविष्य निधि लेखों की एक प्रति वित्तीय वर्ष की समाप्ति के छः माह के अन्दर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी। इस प्रयोजन के लिए भविष्य निधि का वित्तीय वर्ष पहली अप्रैल से 31 मार्च तक होगा।

12. नियोक्ता प्रतिमाह भविष्य निधि को वेय अपने कर्मचारियों के अंश, बातों की आगामी माह की 15 तारीख तक न्यासी बोर्ड को अंतरित कर देगा अंशदानों की विलम्ब से अदायगी करने के लिए समान परिस्थितियों में नियोक्ता सुशान्ति देने का उसी प्रकार उत्तरदायी होगा जिस प्रकार एक न-छूट प्राप्त स्थापना उत्तरदायी होती है।

13. न्यासी बोर्ड सरकार द्वारा समय समय पर दिए गए निर्देशों के अनुसार निधि में जमा राशियों का निवेश करेगा। प्रतिभूतियाँ न्यासी बोर्ड के नाम पर प्राप्त की जाएगी और भारतीय रिजर्व बैंक के जमा नियंत्रण में अनुसूचित बैंक की अभिरक्षा में रखा जाएगा।

14. सरकार के निर्देशों के अनुसार निवेश न करने पर न्यासी बोर्ड अलग-अलग रूप से और एक साथ केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधियों द्वारा लगाए गए अधिक प्रभार का उत्तरदायी होगा।

15. न्यासी बोर्ड एक वस्तु ब्याज रजिस्टर तैयार करेगा और ब्याज और विमोचन आय को समय पर वसूली सुनिश्चित करेगा।

16. जमा किए गए अंशदानों, निकाले गए और प्रत्येक कर्मचारी से संबंधित ब्याज को दिखाने के लिए न्यासी बोर्ड विस्तृत लेख तैयार करेगा।

17. वित्तीय/लेखा वर्ष की समाप्ति के छः माह के अन्दर बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण के स्थान पर पासबुक जारी कर सकता है। ये पास बुक कर्मचारियों की अभिरक्षा में रहेंगी और कर्मचारियों के प्रस्तुतीकरण पर बोर्ड के द्वारा इन्हें अद्यतन किया जायगा।

19. लेखा वर्ष के पहले दिन प्रादि शेष पर प्रत्येक कर्मचारी के लेखों में ब्याज उस दर से जमा किया जायगा जिसका न्यासी बोर्ड निर्णय करे

परन्तु यह उक्त स्कीम के पैरा 60 के अन्तर्गत केन्द्रीय सरकार द्वारा घोषित दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड केन्द्रीय सरकार द्वारा घोषित व्याज की दर हम कारण से कि निवेश पर आय कम है या किसी अन्य कारण से अक्षा करने में असमर्थ है या इसी को निरोधित पूरा करेगा।

21. नियोजता भविष्य निधि की खोरी के कारण, लूटखोटी, व्ययान, गबन अथवा किसी अन्य कारण से हुई हानि को पूरा करेगा।

22. नियोजता और न्यासी बोर्ड, क्षेत्रीय भविष्य निधि आयुक्त को ऐसी विवरणियाँ प्रस्तुत करेगा जो मकर मकर पर केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त विधित्त करें।

23. उक्त स्कीम के पैरा 69 की शैली पर किसी कर्मचारी को निधि के सदस्य न रहने पर यदि स्थापना के भविष्य निधि नियमों में नियोजताओं/अंशदानों को उक्त करने की व्यवस्था है तो न्यासी बोर्ड इस प्रकार उक्त की गई राशियों का अलग से लेखा तैयार करेगा और उसे ऐसे प्रयोजनों के लिए उपयोग करेगा जो केन्द्रीय भविष्य निधि आयुक्त की पूर्ण अनुमति से सुनिश्चित किया गया हो।

24. स्थापना के भविष्य निधि नियमों में निर्दिष्ट किसी बात के होते हुए भी यदि किसी व्यक्ति की सेवा निवृत्ति होने के फलस्वरूप या किसी अन्य प्रतिष्ठान में नौकरी करने पर निधि की सदस्यता समाप्त हो जाती है यह पता लगता है कि प्रतिष्ठान के भविष्य निधि नियमों के अन्तर्गत अंशदान की दर समग्रहण की दर यादव सांविधिक योजना के अन्तर्गत की गई दरों की तुलना में कम अनुकूल है तो अन्तर का बहान नियोजक द्वारा किया जायेगा।

25. नियोजता, भविष्य निधि के प्रणालय से संबंधित सभी खर्च जिनमें लेखों के रख रखाव रिटर्न प्रस्तुत किए जाने, राशियों का अन्तरण शामिल है, वहन करेगा।

26. नियोजता समुचित प्राधिकारी द्वारा अनुमोदित निधि के नियमों की एक प्रति तथा जब भी कोई संशोधन होता है, उसकी मुख्य बातों को कर्मचारियों के बहुमत की भाषा में अनुवाद करके स्थापना के बोर्ड पर लगाएगा।

27. "समुचित सरकार" स्थापना की चालू छूट पर और शर्तें लगा सकती है।

28. यदि उक्त अधिनियम के अन्तर्गत स्थापना वर्ग जिसमें उसकी स्थापना आती है, पर अंशदान की दर बढ़ाई जाती है, नियोजता भविष्य निधि अंशदान की दर उचित रूप में बढ़ाएगा, ताकि उक्त अधिनियम के अन्तर्गत दिए जाने वाले लाभों से स्थापना की स्कीम के अन्तर्गत दिए जाने वाले भविष्य निधि के लाभ किसी भी प्रकार से कम न हों।

29. उक्त शर्तों में से किसी एक के उल्लंघन पर छूट रद्द की जा सकती है।

[संख्या एस-35015(1) 89-1म.मु.2.]

ए. के. भट्टारक, अवर सचिव

S.O. 271.—Whereas Messrs Sree Visalam Chit Fund Limited, 7/117, O.A. Street, Pallattur Ramnad District (Tamil Nadu), including its various Branches in Tamil Nadu, Karnataka, Kerala and Pondicherry (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favour-

able to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of section 17 of said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishments and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishment shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said scheme this is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically no amendment of the rules of the provident fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

5. All employees (as defined in section 2(f) of the said Act) who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Fund Organisation inter-alia for proper accounts of the receipt into and payments from the Provident Fund and the balance in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or an officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner

shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st of April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an unexempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a Schedules Bank under the Credit Central of the Reserve Bank of India.

14. Failure to make the investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a script-wise register and ensure timely realisation of interest and redemption proceeds.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of account to every employee within six months of the close of financial accounting year.

18. The Board may, instead of the annual statement of accounts, issue pass books to every employee. These pass books shall remain in the custody of the employees and will be brought up to date by the Board on presentation by the employees.

19. The account of each employee shall be credited interest calculated on the opening balance as on the 1st day of the accounting year at such date may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason, then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be caused to the Provident Fund due to theft burglary, defalcation, mis-appropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employers' contribution in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the provident fund rules of the establishment, if on the cessation of any individual, from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution, rate of forfeiture etc. under the provident fund rules of the establishment are less favourable as compared to those under the statutory scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of Accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto alongwith a translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for contained exemption of the establishment.

28. The employee shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution for the class of establishments in which his establishment falls is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35G15(1)/89-SS-III]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 16 जनवरी, 1989

का.प्र. 272—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसे भारत कोलिंग कोल लि. का केंद्वारीह कोलियरी के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), घनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-88 को प्राप्त हुआ था।

New Delhi, the 16th January, 1989

S.O. 272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Kendwadih Colliery of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 29-12-1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 22 of 1988

PARTIES:

Employers in relation to the management of Kendwadih Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : Shri Anand Mohal Prasad, Authorised Representative of the workmen.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 23rd December, 1988

AWARD

By Order No. 1-20012/183/83-D.III(A) dated the 7th December, 1983, the Central Government in the Ministry of Labour had, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, referred the dispute for adjudication to the Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently the dispute has been transferred to this Tribunal vide Ministry of Labour's Order No. S-11025(7)/87-D.IV(B) dated 31-12-87/12-1-88. The schedule of this dispute runs as follows :

"Whether the action of the management of Kendwadhi Colliery of Messrs. Bharat Coking Coal Ltd. in denying wages to the Guards named in the Annexure below, on par with the wages of Sarvashri Ram Chandra Upadhyaya and Pannalal Vishwakarma, junior Guards, is justified? If not, to what relief are the workmen concerned entitled?"

ANNEXURE

1. Shri Dil Bahadur.
2. Shri Ramsundar Singh.
3. Shri Jai Narayan Misra.
4. Shri Ramlal Bahadur.
5. Shri Ganesh Bhuiya.
6. Shri Ambika.
7. Shri Suknandan Singh.
8. Shri Bharis Singh.
9. Shri Ramlakhan Pasi.
10. Shri Nathun Singh.
11. Shri Karoo Ram.
12. Shri Lallan Singh.

2. The case of the management of Kendwadhi Colliery of M/s. B.C.C. Ltd. as appearing from the written statement, details apart, is as follows :

The sponsoring union, namely, Akhil Bhartiya Koyla Kamgar Union, is practically non-existence in Kendwadhi colliery and hence this union is not competent to raise the present dispute. Furthermore, the demand made by sponsoring union before A.L.C.(C) is entirely different from the dispute that has been referred to this Tribunal for adjudication. On merits the employers have stated that Rashtriya Colliery Kamgar Union raised a demand in 1973 for regularisation of 29 guards in Grade 'G' in place of Grade 'H' for their actual performance of job of Night Guard. The matter lingered on while these 29 guards continued to perform the duties of Night Guards. Ultimately the management agreed that these 29 guards would be placed in grade of Night Guard i.e. in Grade 'G' and that their pay would be fixed taking into account the nature of job done by them as Night Guard. This decision was taken in 1979 and 29 guards were placed in Grade 'G' in 1979. However, they were not paid any arrears for the past period. These 29 guards included S/Shri Ram Chandra Upadhyaya and Pannalal Vishwakarma amongst others. Subsequently Rashtriya Colliery Mazdoor Sangh took up the question of payment of arrear to these guards for the period prior to 1979 and raised a demand to that effect.

166 GI/89—4.

After protracted negotiations, the management and the Rashtriya Colliery Mazdoor Sangh arrived at an agreement which was incorporated in a settlement according to law and in terms of the settlement the management allowed two increments to them in the pay scale of Night Guard with effect from 21-12-79 in lieu of arrears payable to them for the period prior to 1979. The other Night Guards who were already working in the colliery were placed in Grade 'G' and got the normal increments and so there was no question of foregoing any arrear relating to their past services. When two groups of workers are in the same pay scale, there is no question of any one of them being in a higher or lower scale as compared to the others. Even as regards the stage at which the pay of the aforesaid 29 workers was fixed, the concerned workmen can have no grievance whatsoever as the facts and circumstances of the case of the letter are entirely different of those of the former. There is no provision that a junior man cannot get higher pay than a senior as the factors governing pay are entirely different from the factors determining seniority. The concerned workmen got due increments from time to time in their graded scale of pay and they cannot entertain any grievance on account of method of fixation of pay of these 29 workmen referred to above. There is no Night Guard or Guard as Bharis Singh as referred to in the Annexure to the reference. S/Shri Ambika and Nathun Singh had retired from service long ago and so the question of any seniority or juniority between such retired workers and those still continuing in service does not arise. Seniority and Juniority are relevant in the matter of promotion. For the purpose are seniority the entire Night Guard serving under M/s. B.C.C. Ltd. are considered and all of them are covered by a combined seniority list. Lallan Singh was appointed in the post of guard with effect from 1-1-90 and the question of comparing him with Ram Chandra Upadhyaya and Pannalal Vishwakarma does not arise. In the circumstances the management has prayed that the present reference be answered in its favour.

3. The case of the concerned workman, as appearing from the written statement submitted by the sponsoring union, namely, Bhartiya Koyala Kamgar Union, briefly stated, is as follows :

The main question in the present reference is whether the guards junior in length of service can be given higher pay scale without protesting the seniority in the cadre. S/Shri Ramchandra Upadhyaya and Pannalal Vishwakarma are designated as Night Guards in Atea No. VII and junior to the concerned workmen. The concerned workmen have been serving the company before take over. By giving two increments to Upadhyaya and Vishwakarma the management disturbed the position of seniority of the concerned workmen and make them junior.

4. In the rejoinder to the written statement of the sponsoring union, the management has reiterated that S/Sri Ramchandra Upadhyaya and Pannalal Vishwakarma were simply regularised as Night Guards in 1979 and therefore by agreement with the recognised union Rashtriya Colliery Mazdoor Sangh certain consequential adjustments were made. The concerned workmen were employed prior to the date of nationalisation, but it is not true that they have been working as Night Guards from the date of their appointment. Granting of two increments to Ramchandra Upadhyaya and Pannalal Vishwakarma does not make others junior to them, if they were really junior earlier. By grant of two increments to the aforesaid persons the seniority of other workers was not disturbed or adversely effected.

5. In the rejoinder to the written statement of the management the sponsoring union has stated that it is very much in existence and has a large number of following in the colliery. It is further contended that by giving two increments to some of the juniors in the cadre of Security Guard, the management has created complication and hence the present dispute has arisen. Since the 29 guards have been given two increments and were placed in Grade 'G' the seniority of other guards have been upset. It has been stated that the name of Bharis Singh is simply a misprint and should be read as Ram Bharosa Singh and that retirement of two

workers from service does not make any difference since the claim for difference of wages appears as a live issue.

6. The parties went to the hearing without adducing any documentary evidence. But the management examined N. P. Singh, Senior Personnel Officer of Kendwadhi Colliery as its sole witness while Jai Narain Misra, one of the concerned workmen has examined himself in support of the case of the concerned workmen.

7. It is an undeniable fact that the concerned workmen were in employment of the colliery prior to the date of nationalisation of the collieries. But it has disputed by the management that all the concerned workmen have been working as Night Guard prior to the date of nationalisation of the collieries.

8. WW-1 Jainarain Misra has stated that he has been working in Kendwadhi Colliery since 2-7-69 and that he was appointed Security Guard of the colliery and has been working as such till date. He has also admitted that Pannalal Vishwakarma has been working as Night Guard since his appointment in 1972-73. He has further stated that Ram Chandra Upadhyaya was earlier working as contractor's worker and since the colliery was nationalised he has been working as Night Guard. There is no dispute that all the concerned workmen and Pannalal Vishwakarma and Ram Chandra Upadhyaya have been posted to Kendwadhi colliery. In cross-examination Jai Narain Misra has admitted that all the guards presently posted in Kendwadhi colliery were appointed before the management of the collieries were taken over in 1971. This being the evidence it can be concluded that Pannalal and Ramchandra Upadhyaya have been working in Kendwadhi colliery as Night Guards since 1971.

9. As per recommendations of the Central Wage Board for the Coal Mining Industry, Night Watchmen or Night Guards are required to be placed in Grade 'G' and Watchmen in Grade 'H' and respective pay scale of workmen in Grade 'G' and 'H' are as follows:

Grade 'G'—Rs. 146-3-176-4-184.

Grade 'H'—Rs. 140-3-170-4-178.

The corresponding pay scale as per National Coal Wage Agreement Nos. I, II and III are as follows:

N.C.W.A.I.	N.C.W.A.II.	N.C.W.A.III.
Remained	Remained	
effective from	effective from	From 1.1.85 to
1.1.75 to 31.12.78.	1.1.79 to 31.12.82.	31.12.1986.
Gr. 'G' 285-7-50-360	415-10-535	580-16-804
Gr. 'H' 274-7-344	404-9-512	567-14-763

10. There is no dispute that all the concerned workmen have been working as Night Guard and placed in Grade 'G'. There is no grievance from them that the management has made any mistake or irregularity in the matter of fixation of their pay as per Central Wage Board recommendations and N.C.W.A.I, II and III. It is also not disputed that 29 Night Guards of the colliery were earlier placed in Grade 'H' in stead of Grade 'G' and that consequent upon raising of a demand in 1973 by R.C.M.S. they were regularised in service as Night Guard in Grade 'G' with effect from 21-12-79 and that by subsequent settlement they were given two increments in lieu of arrears of pay prior to 1979. These 29 Night Guards includes Pannalal Vishwakarma and Ram Chandra Upadhyaya. It has been contended by the concerned workmen that by granting of two increments they have become junior to Pannalal Vishwakarma and Ramchandra Upadhyaya. But WW-1 Jai Narain Misra has himself admitted that he has not seen seniority list and as a matter of fact none of the concerned workmen has seen the seniority list. This being the position it is very difficult to believe from their contention that all of them have become junior to the 29 Night Guards including Pannalal Vishwakarma and Ram Chandra Upadhyaya. As a matter of fact the management has stated in its written statement that by simply granting of two increments to Pannalal

Vishwakarma, the concerned workmen have not become junior to them. But one of the concerned workman is definitely junior to Pannalal Vishwakarma and Ram Chandra Upadhyaya and he is Lallan Singh whose name appears in Sl. No. 12 in the Annexure to the schedule of reference and his date of appointment was 1-1-1980. The concerned workmen have not complained that their pay in the scale has not been rightly fixed or that there existed some irregularity in it. Hence it can be concluded that they are getting their appropriate pay in the scale. Admittedly, the management has granted two increments to Ram Chandra Upadhyaya and Pannalal Vishwakarma and 27 others but this the management has done in order to do justice to them by way of regularising them in Grade 'G' with effect from 21-12-79 and the additional two increments were given to them in lieu of arrear payable to them for the period prior to 1979. The concerned workman can have no grievance over the matter since they have been getting their appropriate pay in their grade.

11. The sponsoring union has not produced wage slips of the concerned workmen and the 29 workmen including Pannalal Vishwakarma and Ram Chandra Upadhyaya to show that they were adversely effected by grant of two additional increments to Pannalal Vishwakarma and Ram Chandra Upadhyaya. Not a whit of evidence has been produced to show that the concerned workmen have become junior to Pannalal Vishwakarma and Ram Chandra Upadhyaya by the grant of two additional increments to the latter.

12. Considering all these facts and circumstances I think that the action of the management of Kendwadhi Colliery of M/s. B.C.C. Ltd. in granting two additional increments to S/Shri Ram Chandra Upadhyaya and Pannalal Misra is justified and denial of two additional increments to the concerned workmen is also justified.

13. Accordingly, the following award is rendered—the action of the management of Kendwadhi Colliery of M/s. B.C.C. Ltd in granting two additional increments to Ram Chandra Upadhyaya and Pannalal Vishwakarma is justified. It is further held that the management is justified in denying two additional increments of the concerned workmen on par with S/Shri Ram Chandra Upadhyaya and Pannalal Vishwakarma.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012/183/83-D.III(A)/IR(Coal-I)]

का. प्रा. 273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैत संघर्ष कोकम कोल लि. का गोविन्दपुर क्षेत्र संख्या-3, क्षेत्रीय स्टोर्स के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-89 को प्राप्त हुआ था।

S.O. 273.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Regional Stores Govindpur Area No. III of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 3-1-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 75 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES:

Employers in relation to the management of Regional Stores, Govindpur Area No. III of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES:

On behalf of the workmen: Shri Lalit Burman, Vice-President, United Coal Workers' Union.

On behalf of the employers: Shri B. Joshi, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dated, Dhanbad, the 28th December, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(u) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(249)/86-D.III(A) dated, the 5th February, 1987.

SCHEDULE

"Whether the action of the management of the Regional Stores, Sindri in Govindpur Area No. III of Messrs. Bharat Coking Coal Limited, in retiring their workman from service, Shri Ramdhani Lodh, Tyndal from 10-3-1985 was justified? If not, to what relief is the said workman entitled?"

The case of the workmen is that the concerned workman Shri Ramdhani Lodh was working in the Regional Stores, Govindpur Area of M/s. BCCL as a Tyndal. He was superannuated from service of the company with effect from 10-3-85 vide letter dated 5/7-2-85. The concerned workman had made a representation to the management regarding the wrong entry of his age in the identity card register before the issue of the notice of his superannuation. Again on 14-11-84 the concerned workman made a representation stating that his age in 1985 was hardly 50 to 51 years and that he had never declared the date of his birth as mentioned in the identity card issued to him and as such he requested that he should be referred to the Medical Board for the assessment of his age. Thereafter the union of the workmen took up the case of the concerned workman with the higher authorities as it was a case of wrong entry of age in the records. The management refused to concede to the demand of the union and thereafter the union raised an industrial dispute before the ALC(C), Dhanbad vide representation dated 10-2-86. During the course of the conciliation proceeding the management produced Form B Register which was apparently prepared after the nationalisation of the coal mine. An inspection of the said Form B Register revealed irregularities relating to the entries made in it. It was found that some of the entries in the Col. "age/dated of birth" were written in different hands and different inks and there was no signature of the Manager or any other competent officer of the establishment at the appropriate place. The concerned workman had never declared his age/date of birth and the entries in the Form B Register was made without his knowledge and after his LTI was obtained in Form B Register. The management did not produce C.M.P.F. records in their possession to show that the date of birth entered in the Form B Register allied with the date of birth entered in C.M.P.F. records. The action of the management in retiring the concerned workman with effect from 10-3-85 was neither lawful nor justified. On the above facts it has been prayed that the concerned workman should be reinstated with full back wages and other benefits with effect from 10-3-85.

The case of the management is that the concerned workman was superannuated on attaining the age of 60 years according to the company's policy. The date of birth recorded in Form B Register against the name of the concerned workman is 11-3-25. The concerned workman had declared his age and other details which are entered in the Form B Register and it was duly authenticated by him. Form B Register is maintained under Section 48 of the Mines Act, 1952 in the normal course of business and the entries in the said statutory register are exclusive proof of the age of the concerned workman on the basis of which he was superannuated. The said date of birth is entered in the identity card register and the identity card issued to the concerned workman after nationalisation of the colliery. The concerned workman had not raised any industrial dispute regarding the entry of his

date of birth in the identity card after it was issued to him at his retirement. The union also had not raised his case earlier which shows that the concerned workman and his union had no reason to challenge the correctness of the entry made in the age column of the concerned workman in Form B Register. The entry of age was made on declaration by the concerned workman in Form B Register and he had given his LTI in acceptance of the correctness of the entries. The C.M.P.F. records are maintained at the C.M.P.F. Office and the management maintains only certain records for the purpose of accounting. Form A returns are maintained at the C.M.P.F. Office. The Union did not call for the same from the C.M.P.F. Office as the entries in it were not helpful to the concerned workman. On the above facts it has been submitted on behalf of the management that the concerned workman is not entitled to any relief.

The point for decision in this case is whether the management was justified in retiring the concerned workman from service with effect from 10-3-85.

The management and the workmen have each exhibited two documents which are marked Ext. M-1 and M-2 on behalf of the management and Ext. W-1 and W-2 on behalf of the workmen. The management examined one witness in support of their case. The workmen did not examine any witness.

Admittedly the concerned workman has been superannuated with effect from 10-3-85. The question is whether the concerned workman had completed 60 years of his age on the date of superannuation. In order to arrive at the said conclusion it has to be seen as to what was the age/date of birth of the concerned workman and whether the entries made in Form B Register was correct and in accordance with the declaration made by the concerned workman. Ext. M-1 is the photo copy of the relevant entry of the concerned workman in Form B Register. The age of the concerned workman as mentioned in Ext. M-1 is 11-3-25 and if this date of birth is taken to be correct, the superannuation of the concerned workman also will be justified. The question therefore is to be decided is whether this entry of date of birth as 11-2-25 mentioned in Ext. M-1 is correct. MW-1 Shri Shankar Prasad is working as an Assistant in Govindpur area in the personnel department since 1983 and is looking after this case as an Assistant of the Personnel Department. He has proved Form B Register Ext. M-1 and the identity card register Ext. M-2. He has stated that the concerned workman had been retired on the basis of his date of birth recorded in Form B Register and the identity card register after he completed 60 years of age in accordance with the rules of the company. In cross-examination MW-1 has stated that when a person is appointed his particulars are noted in Form B Register. Ext. M-1 shows that the concerned workman was first appointed on 16-6-61. It was suggested to MW-1 whether the concerned workman was originally appointed in Govindpur Colliery to which he expressed his ignorance. He has stated that since 1976 the concerned workman is working in the Area Store. He has stated that Form B Register Ext. M-1 was prepared during the close of the year 1975 and the Area Store was started in November, 1975. Thus it appears from the evidence of MW-1 that Ext. M-1 which was prepared sometimes during the close of the year 1975 was not the original Form B Register when the concerned workman was appointed for the first time in 1961. Thus the Form B Register Ext. M-1 is not the original Form B Register and Ext. M-1 is the duplicate Form B Register prepared towards the close 1975. MW-1 has stated that when a person is transferred from one place to the other his L.P.C. is sent to the place of his transfer. MW-1 could not say if LPC of the concerned workman was received in the Area office when he was transferred to the Area. He has stated that Form B Register of a workman transferred to the place is prepared on the basis of the LPC received from the place where he was previously working. He has stated that even after the receipt of the LPC, a declaration of the workmen is received. He has stated that there is no signature in the column meant for the signature of the Manager in Ext. M-1. He has further stated that the name and designation and token No. in Ext. M-1 is in an ink different from the ink of the other entries in Ext. M-1. It is clear therefore that the entry of the date of birth of the concerned workman in Ext. M-1 was written

subsequent to the entries of his name designation and token no. in Ext. M-1 which suggests that the entry of the date of birth in Ext. M-1 was made subsequent to the other entries made therein. It is thus quite possible that the signature of the concerned workman was obtained in Ext. M-1 at the time when his name and other particulars were written but his date of birth was subsequently entered in a different ink and this gives a doubt regarding the genuineness of the fact that the entry of date of birth of the concerned workman was made on the basis of the declaration made by the concerned workman. The authenticity of the correctness of the entry of date of birth in Ext. M-1 could have been established by the production of old Form B Register which was prepared in 1961 in respect of the concerned workman or by the production of the LPC on the basis of which the entry of age was made in Ext. M-1. Neither those documents have been produced by the management to pin down the concerned workman that the entry of his date of birth in Ext. M-1 was quite correct in accordance with the entries made in the old Form B Register and the LPC.

There was yet another document which is being maintained by the management to establish that the entries of the date of birth of the concerned workman in Ext. M-1 was corresponding to his date of birth in the declaration Form A of C.M.P.F. MW-1 has stated that C.M.P.F. records are maintained by the management. He has stated that he does not know if there is mention of the date of birth of the concerned workman in the C.M.P.F. records. According to the schedule to the order of reference it was for the management to establish whether its action in retiring the concerned workman from 10-3-85 was justified and as such the management should have produced CMPF records maintained by it to show that the date of birth of the concerned workman noted in Ext. M-1 was tallying with the date of birth of the concerned workman as mentioned in the C.M.P.F. records. Even if the management had no C.M.P.F. papers maintained by it, it was incumbent on the part of the management to call for Form A from the C.M.P.F. office to establish that the date of birth of the concerned workman as stated in Form B Register was not in variance with his date of birth in C.M.P.F. records. It has already been shown that the date of birth of the concerned workman noted in Ext. M-1 is doubtful nature and as such I think the only practical course opened to us is that the management should refer the concerned workman to the Medical Board for assessment of his age. The concerned workman had earlier in his petition dated 14-11-84 (Ext. W-1) written to the Personnel Manager, Govindpur Area requesting that he should be sent to the Medical Board for the determination of his age and that he undertook to abide by the decision of the Medical Board.

In the result, I hold that the action of the management of the Regional Stores, Sinidih in Govindpur Area No. III of M/s. BCCL in retiring the concerned workman Shri Ramdhani Lodh from service with effect from 10-3-85 is not justified. The management is directed to constitute a medical board for determining the age of the concerned workman after giving him proper notice within one month from the date of publication of the Award and if according to the Medical Board the concerned workman did not complete 60 years of age on 10-3-85 he should be reinstated with back wages and should be allowed to continue in service till he attains the age of 60 years according to the determination of his age by the Medical Board. However, in case the Medical Board finds that he has been rightly superannuated on attaining the age of 60 years, the concerned workman will be entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-20012/249/86-D.III.A/IR (Coal-I)]

का. प्र. 274—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स. भारत कोकिंग कोल लि. का केशुरगढ़ कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, झूठे दावे में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचाट को प्रकाशित करती है

S.O. 274.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Kessurghar Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 28 of 1988

PARTIES :

Employers in relation to the management of Kessurghar Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri S. Bose, Secretary, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 30th November, 1988

AWARD

By Order No L-20012(211)/83-D.III(A) dated, the 19th/20th December, 1983, the Central Government in the Ministry of Labour had, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to the Central Govt. Industrial Tribunal No. 3, Dhanbad. Subsequently the dispute has been transferred to this Tribunal vide Ministry of Labour's Order No. S-11025(7)/87-D.IV(B) dated 31-12-87/12-1-88. The schedule of the dispute runs as follows :

"Whether the management of Kessurghar Colliery of Messrs Bharat Coking Coal Limited are justified in not promoting Shri J. P. Thakur, Store Keeper from Clerical Grade-II to Clerical Grade-I? If not, to what relief is this workman entitled and from which date?"

2. The case of the management of Kessurghar Colliery of M/s. B.C.C. Ltd, as appearing from the written statement, details apart, is as follows :

The present reference is not legally maintainable. The concerned workman was appointed as Card Memo Writer on 17-10-71 at Kessurghar Colliery and placed in Clerical Grade-III. He was posted as Personnel Officer's Clerk at Madhuband sub-area office in 1973 and was placed in Clerical Grade-II. He continued to work in Clerical Gr. II in the personnel department, Administrative department as well as in general section till 4-4-1981. He was transferred to Regional Store after 4-4-81 and was deputed to work as Assistant Store Keeper. He continued to get Clerical Grade-II wages from 1973 till he was promoted to Clerical Grade-I with effect from 30-7-83. Promotion is a function of the management and the same is effected as per prescribed norms. It is also decided on the basis of recommendations of the Departmental Promotion Committee. The promotion of clerical staff is decided on the basis of seniority subject to satisfactory performance to fill up existing vacancies as per rules. The seniority of Grade-II clerks is decided area-wise. The concerned workman could not be promoted earlier because several workmen senior to him had to be promoted. He was a Grade-III clerk and in due course of time he was promoted as Grade-II and Grade-I Clerk and he cannot have any grievance against the management.

3. The case of the concerned workman as appearing from the written statement filed by the sponsoring union, namely, the Kasurghy Colliery Mazdoor Sangh, is as follows.

The concerned workman is a permanent employee of Kessurgarh Colliery with effect from 12-9-1969. He was originally a Despatch Clerk. The colliery was taken over by the Central Government with effect from 1-10-1971 and nationalised with effect from 1-3-72 and its ownership, management and control vested in M/s. B.C.C.L. a Central Government Company. At the time of nationalisation he was deputed to work as Personnel Officer's Clerk for sometime and thereafter he was posted as Store Keeper of the Regional Stores with effect from 4-4-1981. Prior to 4-4-81 he was drawing salary in the time scale of Clerical Grade-II and when he was posted as Store Keeper in Regional Store he became entitled to scale of pay of Clerical Grade-I but the management deliberately kept the workman in the lower Grade. The management upgraded several juniors to the concerned workman to Clerical Gr. I, such as, (i) Bashist Muni Choubey, (ii) P. N. Bhar and (iii) Munagar Mahato. Even in accordance with the promotion policy of M/s. B.C.C. Ltd. the management should have placed him in Clerical Grade-I earlier than 1981 but he became a victim of management's pick and choose policy. The union took up his case and represented his case before the A.L.C.(C), Dhanbad but the conciliation proceeding ended in a failure. Thereafter the Central Government has been pleased to refer the dispute to this Tribunal for adjudication. In the circumstances the sponsoring union has prayed that this Tribunal may be pleased to hold that the management of Barora Area No. 1 of M/s. B.C.C. Ltd. are not justified in not paying the concerned workman salary and emolument of Clerical Grade-I with effect from 4-4-1981 and that the workman be allowed further relief as the Tribunal may deem fit and proper.

4. In rejoinder to the written statement of the sponsoring union the management has reiterated that the concerned workman was not engaged as Despatch Clerk, but he was Card Memo Writer. He was posted as Asstt. Store Keeper. Store Keeper and Asstt. Store Keeper are initially placed in Grade-II and they are promoted to Grade-I according to norms of promotion fixed for the store personnel. The management has every right to regularise any workman doing higher jobs although he is taken from other categories instead of from clerical categories. Persons named were regularised and they were working at the Regional Store before the concerned workman was posted there as Asstt. Store Keeper. These persons are senior to the concerned workman.

5. Admittedly, the concerned workman was placed initially in Clerical grade-III while he was working in Kessurgarh colliery either as Despatch Clerk as claimed by him or as Card Memo Writer as stated by the management. There is no evidence on record to indicate the post he held while he worked in the said colliery as Clerk Grade-III. Anyway, it is an admitted fact that in 1973 he was posted as Personnel Officer's Clerk and was placed in clerical Grade-II and subsequently he was transferred to the Regional Store of the Area with effect from 4-4-1981. It has been claimed by the management that he was transferred to the Regional Store of the Area as Asstt. Store Keeper while the concerned workman has claimed that he was transferred as Store Keeper. None of the parties arrayed has produced any documentary evidence to prove their respective contentions.

6. It has been asserted by the management that Store Keeper as well as Asstt. Store Keepers are initially placed in Grade-II and that they are promoted to Grade-I according to norm of promotion fixed for the store personnel. The recommendations of Central Wage Board for the Coal Mining Industry envisages gradation of Store Keepers in Grade-I and Asstt. Store Keepers in Grade-II. These recommendations were accepted by the Government of India and this gradation was followed in N.C.W.A. I and II. This being the position, it is probable for the management to transfer the concerned workman as Asstt. Store Keeper in Regional Store of the Area since he was on Clerical Grade-II before his transfer. It may be that he was deputed for duty as

Store Keeper while his gradation was clerical Grade-II. But the concerned workman has emphatically stated in his testimony that his case is a case of promotion and not regularisation. His testimony does not also indicate that he performed the duties of higher post while he was paid wages for the lower post.

7. Admittedly, he was promoted to Clerical Grade-I with effect from 30-7-1983. But he has been claiming Clerical Grade-I with effect from 4-4-1981, i.e., the date when he was transferred to the Regional Store Department of the Area on the ground that his juniors, namely, Bashist Muni Choubey P. N. Bhar and Manager Mahto were upgraded in Clerical Grade-I. The concerned workman has stated in his testimony that Mangar Mahto was posted to Store Department after he was posted there and other two persons were posted there sometime before his posting in the said department. But this claim of his does not seem to be correct. It appears from Office Order dated 28-2-1980 (Ext. M-5) that these persons were not regularised in service as Clerical Grade-I but were promoted to the post of Clerical Grade-I and that all of them were posted in Store Department. Hence, the claim of the concerned workman that Mangar Mahato was junior to him in Regional Store is not correct. As a matter of fact Ext. M-5 establishes the fact that all the three persons were posted earlier than him as clerical Grade-II in the Regional Store. It has been complained by sponsoring union in its letter to the General Manager, Barora Area dated 31-12-82 that Bashist Muni Choubey, and P. N. Bhar are non-matric (Ext. W-1). This position also does not seem to be correct because the Office Order (Ext. M-5) shows that both of them are matriculate. Thus, it is seen that the persons named by the concerned workman are not junior to him in service in Regional Store Department.

6. Seniority in clerical cadre admittedly is determined by seniority subject to satisfactory performance of jobs. For this reason every case of promotion is routed through Departmental Promotion Committee. The cases of three persons referred to by the concerned workman were routed through the D.P.C. and as per recommendations of D.P.C. they were promoted to the post of Clerical Grade-I. The concerned workman himself has admitted that he appeared before the D.P.C. in 1982, but his case was not recommended by the D.P.C. He, however, got promotion as Clerk Grade-I as I have stated before with effect from 30-7-1983 before the present reference was made by the appropriate Government. In the circumstances I am constrained to hold that the action of the management in not promoting him to Clerical Grade-I from Clerical Grade-II is justified.

7. Accordingly, the following award is rendered—

The management of Kessurgarh Colliery of M/s. Bharat Coking Coal Limited are justified in not promoting the concerned workman from Clerical Grade-II to Clerical Grade-I before 30-7-1983.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012/211/83-D-III(A)/IR(Coal-I)]
K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 17 जनवरी, 1989

का. भा. ५75.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार काण्डला पोर्ट ट्रस्ट के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के संवैधान्तिक को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-89 को प्राप्त हुआ था।

New Delhi, the 17th January, 1989

S.O. 275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kandla Port Trust and their workmen, which was received by the Central Government on the 10th January, 1989.

ANNEXURE

BEFORE SHRI S. J. SHETH, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, AHMEDABAD

Reference (ITC) No. 38 of 1984

ADJUDICATION

BETWEEN

Kandla Port Trust, Gandhidham.

AND

The Workmen employed under it.

In the matter whether the action of the management of the Kandla Port Trust in not including the name of Smt. Dai Bai Atu, Daily rated worker in the Pool List and not regularising her in employment and terminating her services with effect from January, 1983 is justified? If not, to what relief she is entitled?

AWARD

The Government of India, Ministry of Labour and Rehabilitation, Department of Labour, New Delhi by an order No. L-37012/2/84-D.IV(A) dated 20-11-1984 under clause (d) of sub-section (1) of section 10 of the I.D. Act, 1947, has referred the dispute between the management of Kandla Port Trust, Gandhidham and their workmen to the Industrial Tribunal, Ahmedabad and it has ultimately been referred to me.

As per the Schedule, the industrial dispute is as under:

"Whether the action of the management of the Kandla Port Trust in not including the name of Smt. Dai Bai Atu, Daily rated worker in the Pool List and not regularising her in employment and terminating her services with effect from January, 1983 is justified? If not, to what relief she is entitled?"

During the pendency of the matter, the parties have settled the matter among themselves and they have filed a joint Purshis at Ex. 39 requesting me to pass an award in terms of the settlement. I have gone through the terms of the settlement and I find them most reasonable and in the interest of the worker concerned. I, therefore, pass the following order:

ORDER

The parties must act as per the terms of the settlement (Ex. 39) arrived at between themselves. A copy of this settlement should be attached to this order. No order as to costs.

Secretary

Ahmedabad, 27th December, 1988.

S. J. SHETH, Presiding Officer

[No. L-37012/2/84-D.IV(A)/D.III(B)]

BEFORE HON'BLE INDUSTRIAL TRIBUNAL (GUJARAT) AT AHMEDABAD

Ref : (IT-C) No. 38 of 1984 :

BETWEEN

Kandla Port Trust, Gandhidham :

AND

The workman employed under it.

In the matter of Smt. Daibai Atu-Daily rated workman.

The parties hereto have arrived at an amicable settlement and, therefore, submit the Hon'ble Tribunal to dispose of the Reference in terms hereunder :—

Terms of Settlement

- (1) That Smt. Daibai Atu, daily-rated female worker will be offered a post of Khalasi on regular establishment subject to her passing the medical examination in the first week of January, 1989, in Kandla Port by the Management.
- (2) That the period of non-employment of Smt. Daibai Atu from May 1983 to April 1984 will be treated as continuous for the purpose of considering continuity in service under the Payment of Gratuity Act.

(3) That in view of the foregoing, Smt. Daibai Atu does not press for any other reliefs in the present Reference and submits that all the disputes are settled under this Settlement.

(4) The Hon'ble Tribunal may be pleased to make an Award in terms herein above.

Ahmedabad,

Dated : 22-12-88

Sd/-

(Namori Mulji Lakhia,

Husband of Smt. Daibai Atu).

(GOVIND LARIA)
(Authorised Representative of
Smt. Daibai Atu).

Sd/-

Advocate

For Kandla Port Trust.

Sd/-

(L. K. G. BHATT)

Deputy Secretary,

Kandla Port Trust,
Gandhidham,

का. घा. 276.—प्रयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बारपाडा कासीया बायरन माइन्स के प्रबन्धन के सम्बन्ध निम्नलिखित और उनके कर्मचारियों के बीच, प्रमुख में निम्नलिखित प्रयोगिक विवाद में प्रयोगिक अधिकरण, बुधनेश्वर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-1-89 को प्राप्त हुआ था।

S.O. 276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Barpada Kasia Iron Mines and their workmen, which was received by the Central Government on the 9th January, 1989.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL.B.
Presiding Officer, Industrial Tribunal,
Orissa, Bhubaneswar

AND

Industrial Dispute case No. 8/89(Central)
Dated Bhubaneswar, the 7th December, 1988

BETWEEN

The Management of Barpada Kasia Iron Mines

..... First Party—
Management.

AND

Their workman Sri Anam Karua, Ex-Watchman, Barpada Kasia Iron Mine of OMC Ltd., Kundernallah, P.O. Joda, District, Keonjhar.

..... Second Party—
Workman

APPEARANCES :

Shri D. Pradhan, Manager (Personnel and Admn.)

For the First Party—Management

Shri B. Khilar for the Second Party—workman.

AWARD

1. The Government of India, in the Ministry of Labour Department in exercise of the powers conferred upon them by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute vide their Order No. L-26012/10/86-D.III (B)/D.II-A dated 3rd March, 1980 for adjudication :—

"Whether the action of the management of M/s. Orissa Mining Corporation Ltd., Bhadrachal in relation to their M/s Barpada Kasia Iron Mines, in dismissing from service Shri Anam Karua, Watchman with

effect from 2-7-82 is justified? If not to what relief the workman is entitled?"

2. The second party was serving as a Watchman in the Barpada Kasia Iron Mines of the Orissa Mining Corporation. While he was on duty in the night between 23-3-1979 and 24-3-1979 some copper strips of the Barpada Kasia Magazine Mines were stolen. The second party was then suspended and chargesheeted for negligence in discharge of his duties which resulted in severe loss caused to the Corporation. The second party submitted his explanation denying the charge which was found unsatisfactory and thereafter, a domestic enquiry was conducted against him. In the domestic enquiry he was found guilty of the charge and on the basis of the report submitted by the Enquiry Officer he was discharged from service.

The second party-workman in his statement of claim filed in this proceeding before the Tribunal not only denied the charge of negligence levelled against him but also challenged the domestic enquiry as having not been conducted against him properly and fairly. He stated in the statement of claim that there was theft of copper strips by two culprits and when he detected the same, he reported the matter to the Mines Manager and other Officers. The matter was reported to the police who caught hold of the culprits and recovered the stolen articles. There was a criminal trial against those two culprits in the Court of the S.D.J.M., Champua in G.R. case No. 125/79 and both the culprits were convicted.

3. The First Party-Management filed written statement in which they contended that on 23-3-1979 the second party was thoroughly negligent and did not keep watch on the magazine on account of which the copper strips worth about Rs. 40,000/- were stolen. It was also stated that recovery of the stolen copper strips cannot be a mitigating circumstance ground so far as the conduct of the second party is concerned and as such, he has rightly been proceeded against and punished.

With regard to the domestic enquiry, it was contended on behalf of the First Party Management that all reasonable opportunities were given to the second party workman for defending himself in the domestic enquiry and there has been no infirmity in the said enquiry.

4. On these pleadings the following three issues were framed :—

Issues

- (1) If the domestic enquiry conducted by the First Party—Management against the second party-workman with regard to the charges of negligence in discharge of his duties was fair and proper?
- (2) If the action of the Management in discharging the second party-workman from his service on the basis of the finding recorded in the domestic enquiry is legal and justified?
- (3) To what relief, if any, the second party-workman is entitled?

5. At the instance of the First Party—Management Issue No. 1 on the question as to whether the domestic enquiry conducted by the First Party Management was fair and proper or not was taken up for preliminary hearing. By an order passed on 2-12-1983 it was held that the domestic enquiry conducted against the second party—workman suffered from procedural defects and serious lacunae, in as much as, before the Management's witnesses were examined the delinquent workman was examined and he was practically cross-examined by the Enquiry Officer. Besides one of the witnesses for the Management was examined in the absence of the delinquent. In the circumstance, the domestic enquiry was held to be unfair and improper.

The First Party—Management made no prayer to prove the charge against the workman on merits before this Tribunal. Its representative submitted that since after his removal from service the second party has been gainfully

employed elsewhere and therefore, even if he is reinstated, he should not be allowed back wages. The representative of the second party disputed this assertion. In the circumstance, the parties were directed to lead evidence on the question of gainful employment of the second party since after he was discharged from service.

6. On behalf of the First Party—Management, a Junior Administrative Officer of the Orissa Mining Corporation was examined who stated that when he goes to a picture house at Jeda, he sees the second party—workman working there as a getekeeper. According to him he is seeing this since the last two years. Being cross-examined, he stated that every month he visited the cinema house in question twice or thrice only. He could not say if the second party-workman is working in the cinema house for wages or not. He has not seen any papers belonging to the cinema house relating to the employment or non-employment of the second party. From this evidence it is impossible to come to a conclusion that since after he was discharged, the second party-workman is gainfully employed so as to be deprived of his back wages.

7. In the conclusion, therefore, I would hold that in this case the First Party—Management has not proved the misconduct for which the second party was discharged from service. It has also not proved that the second party was employed gainfully since after he was discharged from service. Consequently, I would hold that the action of the management in dismissing the second party Sri Anam Karua from service with effect from 2-7-1982 is not justified.

8. The second party-workman Sri Karua is accordingly entitled to reinstatement but in the circumstance of this case, I would hold that he would be entitled to 50 per cent of his back wages from the date of his termination till he is reinstated.

9. The reference is answered accordingly.

Transcribed to my dictation and corrected by me.

S. K. MITRA, Presiding Officer
[No. L-26012/10/86-D.III(B)]

पं. प्र. 277.—औद्योगिक विवाद प्रवर्धन, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नमूने पोर्ट ट्रस्ट के प्रवर्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रवर्धन, नं. 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-89 को प्राप्त हुआ था।

S.O. 277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workmen, was received by the Central Government on the 10-1-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 BOMBAY

Reference No. CGIT-2/37 of 1987

PARTIES:

Employer in relation to the management of Bombay Port Trust.

AND

Their workmen.

APPEARANCES:

For the Employers: Shri H. P. Sarkar, Dy. Chief Law Officer and Advocate.

For the Workmen: Shri Jaiprakash Sawant, Secretary, B.P.T. Employees' Union.

INDUSTRY : Ports and Docks. STATE : Maharashtra.

Bombay, the 20th December, 1988

AWARD

The Central Government by their Order No. L-31012/10/86-D.IV(A) dated 3-7-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 :—

"Whether the action of the management of Bombay Port Trust, in relation to its hospital at Wadala, Bombay in terminating the services of Shri P. B. Chavan, Hospital Safaiwala, w.e.f. 30-7-1984 is justified? If not, to what relief the workman concerned is entitled?"

2. The case of the Bombay Port Trust Employees' Union as disclosed from the Claim Statement (Ex. 2/W) in short is thus :—

The workman, Shri Premji B. Chavan, was appointed as Hospital Safaiwala in Port Trust Hospital, Bombay Port Trust with effect from 16-7-1971. The Chief Medical Officer of that Hospital issued chargesheet dated 9-12-1983 informing the workman that it was proposed to hold a departmental enquiry against him under the Rules and Regulations for Non-Scheduled Staff read with Regulations of the B.P.T. Employees (conduct) Regulations, 1976. The workman submitted a written statement of his defence explaining about his absence from duty on certain days. The Chief Medical Officer informed the workman that Shri S. P. Chaurasia, Jr. Assistant Legal Adviser of the BPT has been appointed to enquire into the charges framed against him. The said Enquiry Officer issued a Notice to the workman and informed him that the enquiry would be held in his office on 8-5-1984. The workman remained present on that day. A copy of the written statement of the workman's defence was not forwarded by the Chief Medical Officer to the Enquiry Officer. The Enquiry Officer did not conduct the enquiry and returned the enquiry papers to the Chief Medical Officer without recording his own findings. The Chief Medical Officer informed the workman about his intention to dismiss him on the plea that the workman was found guilty in a departmental enquiry held against him. The workman submitted his petition to the Chief Medical Officer regarding his say. The Chief Medical Officer thereafter, by his Memo, dated 26-7-1984 dismissed the workman stating that the workman was found guilty of the charges in the department enquiry held against him.

2. Thereafter an industrial dispute was raised by the said Union regarding the said dismissal before the Assistant Labour Commissioner (C), Bombay. However, as the conciliation proceedings ended in failure, the Central Government made the reference, as above, regarding the industrial dispute. The said Union in its statement of claim urged that the dismissal of the said workman is capricious, arbitrary and harsh and it amounted to victimisation and unfair labour practice on the part of the management. The Union, therefore, prayed that the Tribunal should hold that the said action of the management of the Bombay Port Trust was not justified, and should direct the management for his reinstatement with full back wages, all allowances and other benefits, and continuity in service.

3. The Secretary of the Bombay Port Trust by his written statement (Ex. 3/M) in short contended thus :—

The said workman Shri Pramii Bonabhai Chauhan had remained unauthorisedly absent on 55 occasions for 253 days during the period from 1-6-1982 to 30-11-83. A chargesheet dated 9-12-1983 was issued to him. Thereafter, the workman by his letter dated 9-1-1984 admitted all the allegations made against him in the chargesheet and tendered unqualified apology. On the date fixed for enquiry before the enquiry officer, he submitted his defence statement to the Disciplinary Authority in which he had admitted the charge of unauthorised absenteeism. The Enquiry Officer therefore, returned the Enquiry papers to the

Disciplinary Authority for necessary action to be taken under Regulation 12(5)(a) of the Port Trust Employees (Classification, Control and Appeal) Regulations, 1976. The workman was dismissed from service after following the procedure laid down in the Regulations and after following the rules. Therefore, the action taken by the management is quite justified and proper.

4. On these pleadings, the necessary Issues were framed (Ex. 4) which are thus :—

- (1) Whether in fact no inquiry was conducted against the workman Shri P. B. Chauhan by the Inquiry Officer Shri S. P. Chaurasia, and whether no findings were recorded by him against the workman?
- (2) Whether the workman had admitted the charge of unauthorised absenteeism before the disciplinary authority, and hence, no enquiry was conducted by the Inquiry Officer against the workman?
- (3) Whether the rules of natural justice, and the Bombay Port Trust Employees (Conduct) Regulations, 1976, were followed in holding the inquiry against the said workman?
- (4) Whether the action of the management of Bombay Port Trust, in relation to its hospital at Wadala, Bombay in terminating the services of Shri P. B. Chauhan, Hospital Safaiwala, w.e.f. 30-7-1984 is justified?
- (5) If not, to what relief the workman concerned is entitled?
- (6) What Award?

5. (1) Yes,

(2) Yes.

(3) Yes.

(4) Termination as dismissal unjust.

(5) Fresh appointment. As per Award below.

REASONS

ISSUES NOS. 1, 2, and 3

6. The workman, Shri Premji B. Chauhan, filed affidavit (Ex. 6/W) in support of his case. He was cross-examined on behalf of the management of the Bombay Port Trust. Shri Bhaskar Laxman Joshi, Administrative Officer, Medical Department of the Bombay Port Trust, filed his affidavit (Ex. 5/M) in support of the contentions of the management. He was also cross-examined on behalf of the Union of the workman. It is an admitted fact that the workman Shri Chauhan was working as a Sweeper in the Medical Department of the Bombay Port Trust from July, 1971 till the date of his termination of service on 31-7-1984. He admitted in his affidavit that he was chargesheeted on 9-12-1983 by the Chief Medical Officer. By the Memo, dated 9-12-1983 (Ex. 9) the Chief Medical Officer informed the workman that a departmental enquiry was proposed against him and directed him to submit his written statement in the matter. The workman Shri Chauhan filed his statement on 9-1-1984 (Ex. 10). There Shri S. P. Chaurasia, Junior Assistant Legal Adviser, of the Bombay Port Trust was appointed as the Enquiry Officer (Ex. 11). The Enquiry Officer by his notice (Ex. 12) asked the workman to remain present before him for the enquiry on 8-5-1984. According to the workman, the said Enquiry Officer did not conduct any enquiry and returned the enquiry papers to the Chief Medical Officer without recording any findings. It is an admitted fact that no enquiry was held by the said enquiry officer and that he had returned the papers to the Chief Medical Officer. Therefore, according to the workman, the dismissal order passed by the management without any enquiry being held against him, is not proper and valid in law.

7. I find that this contention of the workman is not tenable. As the said workman was in the service of the Bombay Port Trust he is governed by the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976. Regulation M2(5)(a) of the said Regulations reads thus :—

"On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers necessary so to do, appoint under sub-regulation (2), an inquiring authority for the purpose, and when all the articles of charge have been admitted by the employee in his written statement of defence, the disciplinary authority record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in regulation 13."

Thus, under this Regulation 12(5)(a), the enquiry can be held by the Disciplinary Authority itself, or it may appoint an enquiring authority for the purpose of making the necessary enquiry. Further the Disciplinary Authority may itself inquire into such of the articles of charges as are not admitted. Therefore, in case the articles of charges are admitted by the workman, no further enquiry in fact need be held by the Disciplinary Authority or by the enquiring authority. It would be seen from the reply dated 9-1-1984 (Ex. 10) sent by the said workman to the Chief Medical Officer, when the Chief Medical Officer informed the workman about the proposed enquiry against him, that the said workman in fact admitted all the charges levelled against him. In substance, the said workman stated thus in that reply :—

"At the very outset I submit that contents of your Memo are substantially true. Due to sickness in my family I was compelled to remain away from my duty as there was no elderly person to look after them. I have taken a serious note of your warnings and I sincerely and seriously regrets for my irregular attendance that occurred due to above reasons. I tender my unqualified apology and hereby give an undertaking not to commit any misconduct that will call for any action against me. I beg for mercy and most humbly pray your Honour with folded hands that my case may kindly be considered purely on compassionate grounds having regard to the pathetic condition of my family. I request you sir to take a lenient view this time and give me a chance to be trustworthy. I request you sir not to hold an enquiry and show me mercy and for this act of kindness, I shall ever pray ;

Thus, the workman admitted all the charges levelled against him. Hence the Enquiry Officer did not conduct any further enquiry against him and returned the enquiry papers to the Disciplinary authority. It is seen from the copy of the order (Ex. 13) that the above said statement of the workman was not placed before the enquiry officer, but it was brought to his notice that the said workman had admitted all the charges levelled against him and hence the Enquiry Officer returned the enquiry papers to the Disciplinary authority for further necessary action in the matter. As such, no enquiry was held against the said workman.

8. However, under the said Regulation 12(5)(a), the disciplinary authority was competent to hold further enquiry in the matter, and when all the charges have been admitted by the employer in his written statement of defence, the Disciplinary authority was to record his findings as he may think fit and act in the manner laid down in Regulation 13. It is seen from the record that the disciplinary Authority did not record his findings. However, the Disciplinary Authority, i.e. the Chief Medical Officer sent a Memo. dated 26-5-1984 (Ex. 14) to the workman stating that he was found guilty of the charges levelled against him, that it was proposed to dismiss him from service, and that the workman should file his say in the matter within a week. Therefore, even though the disciplinary Authority did not record as such his findings, as the workman himself had admitted all the charges levelled against him and had earnestly prayed for mercy, no serious illegality had occurred by not recording the findings of guilt by the Disciplinary Authority against the said workman. Again, in his reply to the said show cause notice regarding the proposed punishment, the workman has pleaded guilty to all the charges, and prayed for mercy. In his reply dated 30-5-1984 (Ex. 15), which is in Gujarati, he in substance stated thus :—

"I have received your last Memo with great pain. Due to family and financial difficulties, I am in great

pain. Because of financial, social and family difficulties I used to remain absent. I confess all the charges. I have got now accommodation near my place of work." I will attend my duties regularly. I may kindly be given a last chance. It is my humble request. I request you kindly not to discharge me from service. I may be pardoned and not be thrown on the street."

Thus, the workman in very clear terms had admitted all the charges that were levelled against him.

9. The Chief Medical Officer considered the said reply of the workman and then passed the order of dismissal dated 26-7-1984 (Ex. 16) against the workman with effect from 31-7-1984. Therefore, even though the order of dismissal has been passed by the Chief Medical Officer against the workman, I find that the principles of natural justice were followed and that the necessary rules and regulations of Bombay Port Trust Employees (Classification, control and Appeal) Regulations, 1976, were also duly followed before the said order was passed, and as such, no injustice has been done in the matter regarding the procedure to be followed in the matter. The necessary procedure laid down under Regulation 13(4) has been followed by the Disciplinary Authority in the present case. Issue Nos. 1, 2 and 3 are therefore found in the affirmative.

Issues Nos. 4 and 5

10. Even though the Disciplinary Authority has imposed a major punishment of dismissal upon the workman, I find that this action on the part of the management was not proper and just. According to the management of the Bombay Port Trust, as the service record of the workman is very bad, he deserved a major punishment of dismissal from service. It is seen from the statement of imputations of misconduct (Ex. 18) and the letters (Exs. 21 to 25) that in 1972 he was warned for quarrelling and shouting loudly in Nursing Station, and was again warned in 1976 for sleeping while on duty. It is further seen that his probation period was extended and increment was withheld for six months for improper behaviour in 1972. His increment was withheld for one year in 1980 for sleeping while on duty, and his increment was again withheld for bad leave record in 1980. It is seen from the copy of the leave record of the said workman (Ex. 26) that during the period from June, 1982 to November, 1983, i.e. during the period of 1-1/2 years, his unauthorised leave extended to 253 days, in addition to his authorised leave of 53 days. This means that during the period of 1-1/2 years, he remained absent practically on every alternate day. Therefore, in view of this bad leave record of the workman and the previous warnings given to him as above, the management was inclined to impose the major punishment of dismissal from service upon the said workman. However, it will be seen from the medical case papers marked collectively Ex. 17, that during the period from 1982 to 1984, his minor sons Harish and Nareesh were admitted in Port Trust Hospital, Wadala, for treatment. His one son was suffering from Epilepsy. The workman himself and his wife were ill on certain occasions. This aspect appears to have been not taken into consideration by the Management while imposing the said punishment upon him. Further, the warnings were given to the workman and his increments were stopped in the years 1972, 1976 and 1980. Thereafter, even though he remained absent on a very large number of days from June 1982 to November, 1983, as noted above, his sons were ill and were admitted to the Hospital from time to time. In these backgrounds the major punishment of dismissal appears to be rather too harsh. In my opinion, even though the services of the workman were properly terminated by following due procedure, he should have been removed from the service. He should not have been dismissed. In case an employee is dismissed from service, he will not be eligible for fresh appointment in that company, and will find it difficult to get service even in some other company. However, in case an employee is simply removed from service, he can be considered for fresh appointment in that company. The said workman earnestly prayed for mercy by the above said two written statements. He has also given assurance of good behaviour in future, and not to commit any misconduct in future. Therefore, the said workman should have been only removed from service, and should not have been dismissed from service. I therefore find that the termination of services of the said workman by the

management was proper, but the action taken by the management in dismissing him from service, was not just and proper. He should have been removed from service, and he should have been given one more chance to serve the Bombay Port Trust by appointing him as a fresh employee. Issues No. 4 and 5 are answered accordingly.

Issue No. 6

11. The following Award is therefore passed.

AWARD

The action of the management of Bombay Port Trust, in terminating the services of Shri P. B. Chauhan, Hospital Safaiwala, with effect from 30-7-1984 is justified. However, the action of the management in dismissing him from service, is not just and proper. The said workman stands removed and not dismissed from service with effect from 30-7-1984. The Management of Bombay Port Trust is directed to appoint the said workman as a fresh employee with out back wages and without continuity of service, at the earliest opportunity.

Sd/-

P. D. APSHANKAR, Presiding Officer
[No. L-31012/10/86-D.IV(A)](II)(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 18 जनवरी, 1989

का. प्रा. 273—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पत्तन व्याप्त के प्रमुखतः से सम्बद्ध किंगडों और उनके कर्मचारों के बीच, अनुबंध में निहित विवाद में श्री एस. एन. मोहन्ती, क्षेत्रीय श्रमिकों के भुवनेश्वर के मध्यस्थता पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-89 को प्राप्त हुआ था।

New Delhi, the 18th January, 1989

S.O. 278.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Arbitration award of Shri S.N. Mohanty, Regional Labour Commissioner (C), Bhubaneswar as shown in the Annexure, in the industrial Dispute between the employers in relation to the management of Calcutta Port Trust and their workmen which was received by the Central Government on the 6-1-89.

ANNEXURE

IN THE MATTER OF ARBITRATION UNDER SEC. 10A OF THE INDUSTRIAL DISPUTES ACT, 1947 RELATING TO THE REVISION OF EQUATION-ALLOWANCE PAYABLE TO CATEGORY 'A' WORKERS AND COAL TRIMMERS

Reference No. 2/86, 3/86 & 4/86

BEFORE SHRI S. N. MOHANTY, ARBITRATOR

Representing the employers :
(Calcutta Port Trust, Calcutta).

1. Shri D. K. Mukherjee,
Dy. Labour Adviser &
Industrial Relations Officer,
Calcutta Port Trust.
2. Shri Somnath Ghosh,
Officer on special duty (IR),
Calcutta Port Trust.

Representing the workers :

1. Shri K. K. Roy Ganguly,
Vice-President,
Calcutta Port & Shore Mazdoor,
Union, Calcutta.
2. Shri Parbati Ras,
General Secretary,
Calcutta Port Shramik Union,
Calcutta.
3. Shri Ranjit Nandy,
Joint General Secretary,

Calcutta Port & Dock Workers,
Union, Calcutta.

4. Shri Basas Mitra,
Vice-President,
National Union of Waterfront,
Workers, Calcutta.
5. Shri Ganapati Jha,
General Secretary,
Calcutta Port Shramik Janata,
Panchayat, Calcutta.
6. Sri S. N. Chakravorty,
Vice-President,
Calcutta Port Trust Workers,
Union, Calcutta.

Under 3 separate agreements between the management of Calcutta Port Trust, Calcutta and their workmen represented by Calcutta Port Shramik Union, National Union of Waterfront Workers, Calcutta Port & Shore Mazdoor Union, Calcutta Port & Dock Workers Union signed on 22nd October, 1986, between Port-Trust & Calcutta Port Shramik Janata Panchayat on the 1st August, 1986, and with Calcutta Port Trust Workers' Union on 2nd August, 1986 in terms of Sec. 10A of the Industrial Disputes Act, 1947 the dispute between them regarding upward revision of Equation-Allowance of category 'A' workers on roll as on 1-9-1979 and whether the coal trimmers are also eligible for such revision and whether such revision should also be paid to 'A' category workers recruited after 1-9-1979 were referred to my arbitration. The Government of India, Ministry of Labour in accordance with the provisions of sub-sec. (3) of Sec. 10A of the I.D. Act, 1947 ordered publication of the said agreements vide their orders No. L-32013/2/86-D.IV(A)(I)(II)(III) dated 9-1-1987.

2. The specific matter in the dispute as referred for my arbitration are as follows :—

- (i) Whether upward revision by 20 per cent of the amount of Rs. 34 paid to 'A' category workers on roll as on 1-9-79 for the purpose of revision of Equation Allowance w.e.f. 1-1-80 is justified ?

If so, whether the coal trimmers who also got Equation Allowance be eligible for any such revision?

- (ii) Whether the amount of Rs. 34 per month paid to the 'A' category workers in terms of cl. 2 of the tripartite settlement dated 15-9-1979 should be admissible to 'A' category workers recruited after 1-9-1979, in the context of the Labour-Advisor & Industrial Relations Officer, Calcutta Port Trust's letter No. ID-VIII/112A/1591 dated 31-10-1980.

3. The parties to the dispute were requested vide letter dated 26-3-1987 to file their written statements of the case within 10 days from the date of receipt of the letter endorsing a copy thereof to other parties. The parties requested for time and finally submitted their written statement. A joint statement was submitted by the two unions namely Calcutta Port & Shramik Union & National Union of Waterfront Workers on 6-5-1987 endorsing a copy thereof to the other parties concerned. The Calcutta Port Trust has also submitted its written statement on the 10th June, 1987 endorsing a copy thereof to the parties concerned. Calcutta Port & Dock Workers Union submitted its written statement on 21st May, 1987 forwarding a copy thereof to the other parties. In the said statement they submitted that they fully agree with the written statement on the issues jointly submitted by Calcutta Port Shramik Union & National Union of Waterfront Workers. The Calcutta Port & Shore Mazdoor Union, however, submitted its written statement on 22nd July, 1987 endorsing copies thereof to the other parties.

The Calcutta Port Shramik Janata Panchayat, however, did not submit any written statement even though they sought time from time to time for the purpose. In the end, Calcutta Port Shramik Janata Panchayat made a submission that they would not like to submit any written statement or any argument separately in the case and they supported the case as made-out by the other unions, namely Calcutta Port & Shore Mazdoor Union and Calcutta Port Shramik Union and that the arguments filed by those unions in their case may also be treated as the case of Calcutta Port Shramik Janata Panchayat.

Calcutta Port Trust Workers' Union submitted its written statement on 8-6-1987.

The case of this union was finally heard on the 22nd June, 1988 at Calcutta. The Union stated that the management had agreed in principle for an upward revision by 20 per cent of Rs. 34, the equation allowance paid to other categories of workmen of the Port Trust, which was, however, not paid to 'A' category workers and coal trimmers. The Union, however, could not substantiate their statement; the management also strongly refused it.

In view of the foregoing and as the 3 references concerning 6 unions are same and similar, I consider it expedient to deal it as one and dispose them in an analogous manner, so that there would not be contradictory award.

The first hearing took place in Calcutta on 17th July, 1987 which was adjourned at the request of the parties. The 2nd hearing was held in Calcutta on 25th March, 1988 which was also adjourned. The hearings were held on 23rd June, 1988 and 24th June, 1988 at Calcutta when the Calcutta Port Shramik Union and Calcutta Port & Shore Mazdoor Union submitted their preliminary arguments on the 23rd June, 1988. The other two unions namely National Union of Waterfront Workers and Calcutta Port & Dock Workers Union also made their submissions. The hearings were adjourned to 15th/18th July, 1988 and were heard at Bhubaneswar. The Port Trust management submitted their arguments. The parties expressed their desire to submit further arguments and their counters at a later date and accordingly the hearing was adjourned to 19th August, 1988 at Calcutta. The case was again heard on 19th & 20th August, 88 at Calcutta when the parties submitted their arguments and filed 3 connected documents and exchanged the copies of their arguments between themselves. The arguments were concluded on the 20th August, 1988.

All the 6 unions and the Port Trust separately extended the period of arbitration from time to time and finally till 31-12-1988.

As mentioned in para 2 above, all the three issues which submitted for my arbitration are now being examined herein ad-seriatim in the light of the written statement, rejoinders, documents produced and arguments oral and written.

ISSUE NO. 1.

Whether up-ward revision by 20 per cent of the amount of Rs. 34 as paid to 'A' Category workers on roll as on 1-9-79 for the purpose of the revision of Equation allowance with effect from 1-1-80 payable to 'A' category workers is justified?

Shri K. K. Roy Ganguli of Calcutta Port and Shore Mazdoor Union spoke on this issue. He briefly narrated the history of this allowance and stated that 'A' category workers were getting equation allowance and personal Allowance at the rate of Rs. 21 & 20 respectively. The Cargo-handling 'A' category workers who were on roll as on 15-9-79 were also getting Rs. 34 as roster off wages in addition to the equation allowance and personal allowance; thus they were paid Rs. 21 + Rs. 20 + Rs. 34 = Rs. 75. There was 20 per cent increase in equation allowance and personal allowance. According to clause 2 of the settlement dated 15-9-79 it had been agreed to pay at the rate of Rs. 34 per month in lieu of roster off day payment which is payable only to those category 'A' workers who were on the roll as on 1-9-79. The demand for equation—allowance in Calcutta Port Trust arose when such allowance was introduced for the shore workers of Madras Port Trust. When equation allowance was increased in Madras Port Trust @ Rs. 2.50 per day the concerned workman in Calcutta Port Trust also demanded for similar increase. A bipartite settlement was reached on 26th October, 1980 when some of the unions who were also parties to this arbitration in which this roster off allowance was taken into consideration and became a component of equation allowance and balance amount of Rs. 20 per month was allowed as "personal allowance" to make-up the total Rs. 75 per month which was being enjoyed by the shore workers of Madras Port Trust. In view of the settlement of Port Trust, the Port Trust accepted the fact that Rs. 34 lost its character of 'roster of wages' and became a component of the equation allowance. In view of the above the 'A' category workers

who were recruited prior to 1-9-79 should get an up-ward revision by 20 per cent of Rs. 34. This position was also confirmed by Calcutta Port Shramik Union and National Union of Water Front Workers and Calcutta Port and Dock Workers Union.

The port trust management in their argument stated that the reference to the Arbitrator is specific and the Arbitrator is bound by the terms of reference as spelled out in the notification. The reference in the notification speaks of the demand of the workmen for up-ward revision by 20 per cent of Rs. 34. Therefore, the scope is limited to the up-ward revision of this allowance of Rs. 34 w.e.f. 1-1-80 and not for further revision w.e.f. 1-1-84. According to the port trust Rs. 34 is not an Equation Allowance but a distinctly separate allowance and this being so there is no case for an up-ward revision of this allowance. The management further mentioned that the Equation Allowance was introduced in Calcutta Port Trust with a view to maintain parity between the gross wages of 'A' category Shore Workers/coal trimmers of port trust and Calcutta Dock Labour Board workers so moto raising from Rs. 15 to Rs. 21 per month which was, however, not acceptable to the unions. A bipartite settlement was arrived at with Calcutta Port Shramik Panchayat & Calcutta Port Shramik Union wherein it was agreed that the Personal Allowance would be introduced and paid to the workers w.e.f. 1st January, 1974 @ Rs. 20 per month per worker. This was arrived at by comparing the static wage component of the Shore Workers of Calcutta Port Trust & Shore Workers of Madras Port Trust. It was further argued that Rs. 34 was not Equation Allowance but distinctly a separate allowance. In accordance with the tripartite negotiations between the federation and Government of India, it was agreed that in Calcutta Port Trust there should be in general 20 per cent increase in this special allowance and there was no scope for comparison of such revision with any other ports. The reference being "for the purpose of revision of Equation Allowance" and Rs. 34 not being the Equation-Allowance but a separate allowance there is no case for up-ward revision by 20 per cent of Rs. 34 for the purpose of revision of Equation Allowance. The management had also argued that the unions have agreed to drop the demand of Equation Allowance and hence any revision thereof is also should not be added but on a perusal of settlement dated 14th July, 1977 and 4th January, 1981 show that there was provision for revision of special pay and allowances at local level. There is, therefore, no case for further upward revision of the allowances w.e.f. 1st January, 1984.

It is a fact that Rs. 34 was an allowance in lieu of roster off wages which was continued even under the settlement dated 15th September, 1979 for the 'A' category workers and became a static element in their wage structure and was made personnel to the 'A' category workers on roll as on 1st September, 1979. However, when the demand for having parity in the Equation Allowance of Rs. 75 per month was raised by the unions, the port trust took Rs. 34 (roster off wages-personal allowance) as a component of the same and agreed to make good the deficiency by payment of another Rs. 20 as Personal Allowance. This action of the management shows that they had accepted Rs. 34 as static wage component of the Shore workers of Calcutta Port and, therefore, the stand of Calcutta Port Trust that the up-ward revision of this amount is not covered by the reference "for the purpose of revision of Equation-Allowance"; because Rs. 34 had already been made a part & parcel of Equation Allowance and in the bilateral settlement dated 28th & 29th October, 1984 between the Port Trust and Calcutta Port Shramik Union and Calcutta Port Shramik Janata Panchayat, I, therefore, hold that the demand for up-ward revision of 20 per cent of Rs. 34 for the purpose of revision of Equation-Allowance is very well covered within this reference. Now coming to the issue as to whether there is justification for a further up-ward revision of this amount by 20 per cent it is seen that the Calcutta Port Trust and the unions had jointly agreed for an increase of 20 per cent in this special allowance. The Equation-Allowance is an allowance of which Rs. 34 was made a component and, therefore, it calls for a 20 per cent up-ward revision thereof to all the 'A' category workers who were on roll as on 1st September, 1979 w.e.f. 1st January, 1980. I award accordingly.

Shri Parbati Das of Calcutta Port Shramik Union argued that the coal trimmers should also get Rs. 34 as difference in Equation Allowance which is being denied to them. The Port Trust denied this liability on the ground that this is not covered by the present reference or they are not legally or morally entitled to this amount and the union, therefore, in the past amended this demand and claimed to only revision of the quantum. The other federations namely Calcutta Port Shramik Janta Panchayat, National Union of Waterfront Workers and Calcutta Port & Dock Workers union were silent over this aspect. The Calcutta Port & Shore Mazdoor Union, however, advanced a different view on this and agreed with the Port Trust i.e. Rs. 34 was originally a roster off allowance to which the coal trimmers were not entitled to Rs. 34 at now demanded by Calcutta Port Shramik Union. Further the Triumming pay had already been revised in accordance with the recommendations of Shri Dave, the Arbitrator who were not getting roster off allowance like 'A' category workers. When the management categorically denied any logic for payment of Rs. 34 to coal trimmers not being covered under the present reference and any increase thereof the Calcutta Port Shramik Union continue to press for the increase of 20 per cent of Rs. 34.

The other part of reference of "i(a)" is whether the coal trimmers are also eligible for such revision. This shows that the reference is limited only to examination of revision of Equation Allowance and not of Equation Allowance itself.

The statements* filed by both sides i.e. the port trust and the unions show that there was a revision of Equation Allowance payable to coal trimmers, when the same was revised in case of 'A' category workers since 1969. Therefore, any further revision in the Equation Allowance or part thereof that is to be allowed to 'A' category workers, should also be allowed to coal trimmers. I accordingly award that the coal trimmers should be paid Rs. 6.80 per month (i.e. 20 per cent of Rs. 34) w.e.f. 1st January 1980 which will be in addition to Rs. 21 per month which they are presently getting.

(ib) The unions have contended that the Equation-Allowance is a static element of pay of 'A' category workers and has been accepted as such by port trust. The bipartite settlement of October, 1980 shows that Rs. 34 was made a part of the Equation Allowance in respect of 'A' category workers, where they were employed prior to 15th September, 1979 or after 15th September, 1979. No difference was made on the basis of the date of employment of this category of workmen. As such the management should not differentiate between these two sets of workers in the matter of payment of equation allowance. The unions further argued that a letter No. IB/VIII.D.III/II2A/1591 dated 31st October, 1980 of the LA & IRO, Calcutta Port Trust has an enclosure and this letter should be studied alongwith its enclosures for the purpose of true import of it. The enclosures to the letter were two bipartite agreements between the Calcutta Port Trust on one hand and Calcutta Port Shramik Janta Panchayat and Calcutta Port Shramik Union on the other hand in the matter of their demand for the revision of Equation Allowance. The settlements dated 28th October, 1980 and 29th October, 1980 provide for payment of Rs. 20 per month as a personal allowance so as to bring parity in the static wage packet of Shore Workers of Calcutta Port Trust with that of Madras Port Trust and a settlement containing the details of the wage packet of both the parts were enclosed and that this personal allowance would be paid to all concerned workmen who were in receipt of Equation Allowance. While arriving at this static wage packet the roster off allowance of Rs. 34 was also included so as to reduce the liability of the Port Trust in this regard. Therefore, in all fairness the Port Trust should give Rs. 34 +20 per cent of Rs. 34 to the 'A' category workers recruited after 1st September, 1979 as well, their number being only 49. The port trust management has stated that the substitute payment for roster off day a separate allowance having its basis in the incentive tonnage scheme, 1961 and are paid only to the 'A' category workers recruited prior to 1st September, 1979 and, therefore, should not be confused with other allowances i.e. Equation Allowance & Personal Allowance. The 'A' category workers recruited after 1st September, 1979 as monthly paid workers and did not enjoy the benefit of roster off wages of Rs. 34 like their senior ones. They further denied that the Equation Allowance comprises of Equation Allowance & Personal

Allowance. The allegation of the union was that denial of Rs. 34 per month to 'A' category workers recruited after 1st September, 1979 in the matter of payment of wages is a discrimination, is not correct as this was done on the basis of the settlement signed with the unions. The management further stressed that the examination of the issue should be limited to the contents of the letter cited in the reference. Further, 'A' category workers recruited after 1st September, 1979 were recruited as monthly rated employees and, therefore, they had different service conditions from their counter part who were recruited prior to 1st September, 1979. The management also drew my attention to two case laws, one between Hindustan Paper Corporation and its workmen (1985-Lab. IC 95, Calcutta High Court). In the said case the High Court held that intimation relating to termination of a settlement should be specific and spelt out. During the operation of the settlement, further reference of the dispute would be incompetent and the award passed in consequence thereof would be invalid. To this the unions pointed out that this instant reference, arbitration was agreed to in pursuance to the agreement for further negotiation for the revision of Equation Allowance/Personal Allowance under the Settlement dated 24th March, 1983. Therefore, there is no necessity for termination of any settlement and the case law cited is not relevant. The Port Trust did not sign any settlement after 1983 in which this reference was barred. The Port Trust also drew my attention to another case law between the workmen of Hindustan Teleprinters Limited, Madras & others vrs. Hindustan Teleprinters Ltd. & another in the Madras High Court: (FJR Vol. 62, page 114 to 120). In the judgement dated 22nd October, 1982 it was held that payment of conveyance allowance is at the discretion of the employer, the workmen cannot claim as a matter of right. The union in their counter statement submitted that this clause has no relation so far it relates to reimbursement of expenses for running a conveyance and it is in the nature of fringe benefit, but their demand for equal amount of Equation-Allowance is not a fringe benefit but a static wage element. One has to bear in mind that there is a difference between wage and fringe benefit specially like conveyance allowance. Both these elements are not always comparable, hence this case law is no help to the port trust management.

I heard the parties at length. So long as Rs. 34 was being paid to 'A' category workers appointed prior to 1st September, 1979 in the form of roster of allowance, the 'A' category workers who were recruited after 1st September, 1979, had no claim to the same, because they had never enjoyed this roster off allowance, having been recruited as monthly paid employees; but the port trust by agreeing to treat this as a component of Equation Allowance with a view to arrive at Rs. 75, completely changed its character. When other 'A' category workers got Rs. 75 as Equation Allowance under the bipartite settlement of October, 1980, the 'A' category workers recruited after 1st September, 1979 started getting less by Rs. 34 on this account when the port trust as well as the unions equated the wage packet of the cargo handling workers of Calcutta Port Trust & Madras Port Trust. In view of the above I consider that 'A' category workers recruited after 1st January, 1979 should also get this static element and get Rs. 34 from the date of their respective appointment at the revised rate w.e.f. 1st January, 1980 or later. They should also getting 20 per cent increase thereon w.e.f. 1st January, 1980, to avoid future anomaly in the wage pattern of 'A' category workers.

I award this reference accordingly.

Bhubaneswar,

Dated, the 29th December, 1988.

S. N. MOHANTY, Regional Lab. Commissioner (Central)
Bhubaneswar & Arbitrator

[No. L-32013/2/86-D.IV(A)/II/D.III(B)]

का. प्रा. 279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सारमागोवा हेण्डलिंग एजेंसि एसोसिएशन के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-88 को प्राप्त हुआ था।

S.O. 279.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mormugao Handling Agents Association and their workmen, which was received by the Central Government on 10-1-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/48 of 1987

PARTIES :

Employer in relation to the management of Mormugao Handling Agents Association.

AND

Their Workmen.

APPEARANCES :

For the Employers : Shri P. N. Salgaonkar, Advocate.

For the Workmen : Shri V. K. Redker, General Secretary,
Goa Port & Dock Employees Union.

INDUSTRY : Ports and Docks STATE : Goa
Bombay, dated the 26th December, 1988

AWARD

The Central Government by their Order No. L-36011/3/87-D. IV(A), dated 21-9-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 19(1)(d) of the Industrial Disputes Act, 1947 :—

"Whether the demand of the Goa Port & Dock Employees Union and casual handling labour working through a mini pool formed by the Mormugao Handling Agents Association at Mormugao Port, for an off-season advance of Rs. 100/- is justified and legal? If not, to what relief are they entitled to?"

2. The Mormugao Handling Agents Association by its written statement contested the claim of the Union, and in substance contended thus :

In the absence of any specific contract or agreement between the parties to pay the said off-season Advance, the demand raised by the Union is totally unjustified. It is further contended that in view of the financial position of the Association and in view of the reduction in the work at the Port, the Association is not in a position to pay any advance to the workers. The Advance made during the year 1986 to the workmen is yet to be recovered from them in view of the drastic fall in the workload during the past years. Therefore, the demand of the Union for the Off-Season Advance of Rs. 1000/- is illegal and unjust.

3. While the written statement, as above, was filed by the above Association in March, 1988, the said Association and the Goa Port & Dock Employees Union arrived at a settlement on 13-12-1988 as regards the various demands of the employees Union. A zerox copy of the settlement signed before the Regional Labour Commissioner (C), Bombay, has been produced before this Tribunal, Para 14 of the settlement is material which reads thus :—

"As a measure of appreciation of the workmen's grievances for compensation during the monsoon season, the employer shall pay to each workman who will be staying at Vasco, a sum of Rs. 120/- per month, for the four months of monsoon of 1989 so as to take care of the months of June, July, August and September, 1989. This shall

however be negotiated between the parties for next year or subsequent years so as to settle this amount in advance for payment etc."

4. Application was filed on behalf of the Employees' Union that this Tribunal should pass an Award in terms of para-14 of the said settlement. Therefore, in view of the settlement as contained in para-14 of the settlement it must be said that the demand of the employees Union for the Off-season Advance was just. However, it must further be said that the demand for the Off-season Advance of Rs. 1000/- is unjust. However, in view of the said settlement, the said Association is bound to pay the amount as agreed to the concerned workmen as per para-14 of the said settlement, and hence it is directed to pay the necessary amounts to the concerned workmen as per para-14 of the settlement. Award accordingly.

P. D. AFSHANKAR, Presiding Officer
[No. L-35011/3/87-D IV(A)] [D. III(B)]

का.प्र. 280.—प्रौद्योगिक विवाद मजिनिसम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजी. जी. बी. सी. एण्ड सन् प्राइवेट लि. के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, प्रमुख में निश्चित प्रौद्योगिक विवाद में केन्द्रीय सरकार प्रौद्योगिक अधिकरण, नं. 1 अम्बई के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-89 को प्राप्त हुआ था।

S. O. 280.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. DBC and Sons (P) Ltd., and their workmen, which was received by the Central Government on the 10-1-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

Reference No. CGIT-31 of 1988

PARTIES :

Employer in relation to the management of M/s. DBC and Sons Pvt. Limited.

AND

Their workmen

APPEARANCES

For the Management—Mr. S. V. Mokushi, Advocate.

For the Workmen—Mr. M. B. Anchan, Advocate.

INDUSTRY : Ports and Docks STATE : Maharashtra
Bombay, the 2nd day of January, 1989

AWARD

The Central Government in exercise of the powers conferred by clause (a) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute for adjudication to this Tribunal.

"Whether the Alleged Retirement of three workmen viz. S/Shri Jagannath Dhondu Pawaskar, Ganu Dhondu Harachkar (Khalasi) and Bhiku Hal Kohikar (Tindal) with effect from 10-10-1987 by the Management of M/s. DBC and Sons Pvt. Limited, Bombay, is retrenchment of the workmen? If so, what relief the workmen concerned are entitled to?"

2. The Industrial Dispute was raised by the National Dock Workers' Union (INTUC) on behalf of the three concerned workmen. According to the workmen they were forced to resign by the management and this termination of service amount to retrenchment which was effected without complying with section 25-F of the Industrial Disputes Act.

3. The Management raised several preliminary objections and also denied that the concerned workmen were forced to resign. The management maintained that all the three concerned workmen tendered their resignation voluntarily and that besides paying all the legal dues to them, the company paid to Shri Jagannath Dhondu Pawaskar, and Shri Ganu Dhondu Harachkar (Khalasis) Rs. 7500 each and to Shri Bhiku Bal Kashikar (Tindal) Rs. 10,000 as ex-gratia payment.

4. At the hearing of the reference, however, the National Dock Workers' Union (INTUC) filed an application stating that since the workers are not interested in prosecuting the reference the Union does not want to prosecute the same and that the reference may be disposed off accordingly.

5. In view of the fact that the claims are not pressed by the workmen the reference is disposed off holding that the workmen are not entitled to get any relief.

M. S. JAMDAR, Presiding Officer
[No. L-31012/9/87-D.IV (A)/D. III (B)]

का.प्रा. 281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पत्तन न्यास के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में भी एस. एन. मोहन्ती, क्षेत्रीय श्रमायुक्त के भुवनेश्वर के मध्यस्थता पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-89 को प्राप्त हुआ था।

S.O. 281.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the arbitration award of Shri S. N. Mohanty Regional Labour Commissioner (C), Bhubaneswar as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Calcutta Port Trust, and their workmen, which was received by the Central Government on the 6-1-1989

ANNEXURE

IN THE MATTER OF ARBITRATION UNDER SEC. 10A OF THE INDUSTRIAL DISPUTES ACT, 1947 RELATING TO THE REVISION OF EQUATION-ALLOWANCE PAYABLE TO CATEGORY 'A' WORKERS AND COAL TRIMMERS

Reference No. 2/86, 3/86 and 4/86

Before Shri S. N. Mohanty, Arbitrator.

Representing the employers :

(Calcutta Port Trust, Calcutta).

1. Shri D. K. Mukherjee
Dy. Labour Adviser and
Industrial Relation Officer,
Calcutta Port Trust
2. Shri Somnath Ghosh,
Officer on special duty (IR)
Calcutta Port Trust.

Representing the workers :

1. Shri K. K. Roy Gunguly,
Vice-President,
Calcutta Port and Dock Workers
Union, Calcutta.
2. Shri Parbati Das,
General Secretary,
Calcutta Port Shramik Union,
Calcutta.
3. Shri Ranjit Nandy,
Joint General Secretary,
Calcutta Port and Dock Workers

Union, Calcutta.

4. Shri Basas Mitra,
Vice-President,
National Union of Waterfront
Workers, Calcutta.
5. Shri Ganpati Jha,
General Secretary,
Calcutta Port Shramik Janta
Panchayat, Calcutta.
6. Sri S. N. Chakravorty,
Vice-President,
Calcutta Port Trust Workers
Union, Calcutta.

Under 3 separate agreements between the management of Calcutta Port Trust, Calcutta and their workmen represented by Calcutta Port Shramik Union, National Union of Waterfront Workers, Calcutta Port and Shore Mazdoor Union, Calcutta Port and Dock Workers Union signed on 22nd October, 1986, between Port Trust and Calcutta Port Shramik Janata Panchayat on the 1st August, 1986, and with Calcutta Port Trust Workers' Union on 2nd August 1986 in terms of Section 10-A of the Industrial Disputes Act, 1947 the dispute between Port Trust and Calcutta Port Shramik Janata Panchayat of category 'A' workers on roll as on 1-9-1979 and whether the coal trimmers are also eligible for such revision and whether such revision should also be paid to 'A' category workers recruited after 1-9-1979 were referred to my arbitration. The Government of India, Ministry of Labour in accordance with the provisions of sub-section (3) of Section 10-A of the I. D. Act, 1947 ordered publication of the said three agreements vide their orders No. L-32013/2/86-D.IV (A) (I) (II) (III) dated 9-1-1987.

2. The specific matter in the dispute as referred for my arbitration are as follows :—

- (i) Whether upward revision by 20% of the amount of Rs. 34 paid to 'A' category workers on roll as on 1-9-79 for the purpose of revision of Equation Allowance w.e.f. 1-1-80 is justified? If so, whether the coal trimmers who also got Equation Allowance be eligible for any such revision?
- (ii) Whether the amount of Rs. 34 per month paid to the 'A' category workers in terms of Cl. 2 of the tripartite settlement dated 15-9-1979 should be admissible to 'A' category workers recruited after 1-9-1979, in the context of the Labour Adviser and Industrial Relations Officer, Calcutta Port Trust's letter No. ID-VIII/112A/1591 dated 31-10-1980.

3. The parties to the dispute were requested vide letter dated 26-3-1987 to file their written statements of the case within 10 days from the date of receipt of the letter endorsing a copy thereof to other parties. The parties requested for time and finally submitted their written statement. A joint statement was submitted by the two unions namely Calcutta Port and Shramik Union and National Union of Waterfront Workers on 6-5-1987 endorsing a copy thereof to the other parties concerned. The Calcutta Port Trust has also submitted its written statement on the 10th June, 1987 endorsing a copy thereof to the parties concerned. Calcutta Port and Dock Workers Union submitted its written statement on 21st May, 1987 forwarding a copy thereof to the other parties. In the said statement they submitted that they fully agree with the written statement on the issues jointly submitted by Calcutta Port Shramik Union & National Union of Waterfront Workers. The Calcutta Port and Shore Mazdoor Union, however, submitted its written statement on 22nd July, 1987 endorsing a copy thereof to the other parties.

The Calcutta Port Shramik Janta Panchayat, however, did not submit any written statement even though they sought time, from time to time for the purpose. In the end, Calcutta Port Shramik Janta Panchayat made a submission that they would not like to submit any written statement or any argument separately in the case and they supported the case as made-out by the other unions, namely Calcutta Port and Shore Mazdoor Union and Calcutta Port Shramik Union and that the arguments filed by those Unions in their case may also be treated as the case of Calcutta Port Shramik Janta Panchayat.

Calcutta Port Trust Workers' Union submitted its written statement on 8-6-1987.

The case of this Union was finally heard on the 22nd June, 1988 at Calcutta. The Union stated that the management had agreed in principle for an upward revision by 20% of Rs. 34, the equation allowance paid to other categories of workmen of the Port Trust, which was, however, not paid to 'A' category workers and coal trimmers. The Union, however, could not substantiate their statement; the management also strongly refused it.

In view of the foregoing and as the 3 references concerning 6 Unions are same and similar, I consider it expedient to deal it as one and dispose them in an analogous manner, so that there would not be contradictory Award.

The first hearing took place in Calcutta on 17th July, 1987 which was adjourned at the request of the parties. The 2nd hearing was held in Calcutta on 25th March, 1988 which was also adjourned. The hearings were held on 23rd June, 1988 and 24th June, 1988 at Calcutta when the Calcutta Port Shramik Union and Calcutta Port and Shore Mazdoor Union submitted their preliminary arguments on the 23rd June, 1988. The other two Unions namely National Union of Waterfront Workers and Calcutta Port and Dock Workers Union also made their submissions. The hearing were adjourned to 15th/18th July, 1988 and were heard at Bhubaneswar. The Port Trust management submitted their arguments. The parties expressed their desire to submit further arguments and their counters at a later date and accordingly the hearing was adjourned to 19th August, 1988 at Calcutta. The case was again heard on 19th and 20th August, 88 at Calcutta when the parties submitted their arguments and filed 3 connected documents and exchanged the copies of their arguments between themselves. The arguments were concluded on the 20th August, 1988.

All the 6 Unions and the Port Trust separately extended the period of arbitration from time to time and finally till 31-12-1988.

As mentioned in para 2 above, all the three issues which submitted for my arbitration are now being examined herein ad-seriatim in the light of the written statement, rejoinders, documents produced and arguments oral and written.

Issue No. 1

Whether upward revision by 20% of the amount of Rs. 34 as paid to 'A' Category workers on roll as on 1-9-79 for the purpose of the revision of Equation allowance with effect from 1-1-80 payable to 'A' category workers is justified?

Shri K.K. Roy Ganguli of Calcutta Port and Shre Mazdoor Union spoke on this issue. He briefly narrated the history of this allowance and stated that 'A' category workers were getting equation allowance and personal Allowance at the rate of Rs. 21 and 20 respectively. The Cargo-handling 'A' category workers who were on roll as on 1-9-79 were also getting Rs. 34 as roster off wages in addition to the equation allowance and personal allowance, thus they were paid Rs. 21 + Rs. 20 + Rs. 34 = Rs. 75. There was 20% increase in equation allowance and personal allowance. According to clause 2 of the settlement dated 15-9-79 it had been agreed to pay at the rate of Rs. 34 per month in lieu of roster off day payment, which is payable only to those category 'A' workers who were on the roll as on 1-9-79. The demand for equation allowance in Calcutta Port Trust arose when such allowance was introduced for the shore workers of Madras Port Trust. When equation allowance was increased in Madras Port Trust @ Rs. 2.50 per day the concerned workman in Calcutta Port Trust also demanded for similar increase. A bipartite settlement was reached on 26th October, 1980 when some of the Unions who were also parties to this arbitration in which this roster off allowance was taken into consideration and became a component of equation allowance and balance amount of Rs. 20 per month was allowed as "personal allowance" to make-up the total Rs. 75 per month which was being enjoyed by the shore workers of Madras Port Trust. In view of the settlement of Port Trust, the Port Trust accepted the fact that Rs. 34 lost its character of

'roster of wages' and became a component of the equation allowance. In view of the above the 'A' category workers who were recruited prior to 1-9-79 should get an upward revision by 20% of Rs. 34. This position was also confirmed by Calcutta Port Shramik Union and National Union of Water Front Workers and Calcutta Port and Dock Workers Union.

The Port Trust management in their argument stated that the reference to the Arbitrator is specific and the Arbitrator is bound by the terms of reference as spelled out in the notification. The reference in the notification speaks of the workmen for upward revision by 20% of Rs. 34. Therefore, the scope is limited to the upward revision of this allowance of Rs. 34 w.e.f. 1-1-80 and not for further revision w.e.f. 1-1-84. According to the Port Trust Rs. 34 is not an Equation Allowance but a distinctly separate allowance and this being so there is no case for an upward revision of this allowance. The management further mentioned that the Equation Allowance was introduced in Calcutta Port Trust with a view to maintain parity between the gross wages of 'A' category Shore Workers/coal trimmers of Port Trust and Calcutta Dock Labour Board Workers suo moto raising from Rs. 15 to Rs. 21 per month which was, however, not acceptable to the Unions. A bi-partite settlement was arrived at which Calcutta Port Shramik Panchayat and Calcutta Port Shramik Union wherein it was agreed that the Personal Allowance would be introduced and paid to the workers w.e.f. 1-1-74 @ Rs. 20 per month per worker. This was arrived at by comparing the static wage component of the Shore Workers of Calcutta Port Trust & Shore Workers of Madras Port Trust. It was further argued that Rs. 34 was not Equation Allowance but distinctly a separate allowance. In accordance with the tripartite negotiations between the Federation and Government of India, it was agreed that in Calcutta Port Trust there should be in general 20% increase in this special allowance and there was no scope for comparison of such revision with any other ports. The reference being "for the purpose of revision of Equation Allowance" and Rs. 34 not being the Equation Allowance but a separate allowance there is no case for upward revision by 20% of Rs. 34 for the purpose of revision of Equation Allowance. The management had also argued that the Unions have agreed to drop the demand of Equation Allowance and hence any revision thereof is also should not be added but on a pursual of settlement dated 14-7-77 and 4-1-81 above that there was provision for revision of special pay and allowances at local level. There is, therefore, no case for further upward revision of the allowances w.e.f. 1-1-84.

It is a fact that Rs. 34 was an allowance in lieu of roster off wages which was continued even under the settlement dated 15-9-79 for the 'A' category workers and became a static element in their wage structure and was made personnel to the 'A' category workers on roll as on 1-9-79. However, when the demand for having parity in the Equation Allowance of Rs. 75 per month was raised by the Unions, the Port Trust took Rs. 34 (roster of wages—personal allowance) as a component of the same and agreed to make good the deficiency by payment of another Rs. 20 as Personal Allowance. This action of the management shows that they had accepted Rs. 34 as static wage component of the Shore Workers of Calcutta Port and, therefore, the stand of Calcutta Port Trust that the upward revision of this amount is not covered by the reference "for the purpose of revision of Equation Allowance"; because Rs. 34 had already been made a part and parcel of Equation Allowance and in the bilateral settlement dated 28th and 29th October, 84 between the Port Trust and Calcutta Port Shramik Union and Calcutta Port Shramik Janata Panchayat, I, therefore, hold that the demand for upward revision of 20% of Rs. 34 for the purpose of revision of Equation Allowance is very well covered within this reference. Now coming to the issue as to whether there is justification for a further upward revision of this amount by 20% it is seen that the Calcutta Port Trust and the Unions had jointly agreed for an increase of 20% in this special allowance. The Equation Allowance is an allowance of which Rs. 34 was made a component and, therefore, it calls for a 20% upward revision thereof to all the 'A' category workers who were on roll as on 1-9-79 w.e.f. 1-1-1980. I award accordingly.

Shri Parbati Das of Calcutta Port Shramik Union argued that the coal trimmers should also get Rs. 34 as difference in

Equation Allowance which is being denied to them now. The Port Trust denied this liability on the ground that this is not covered by the present reference or they are not legally or merely entitled to his amount and the Union, therefore, in the past amended this demand and claimed to only revision of the quantum. The other Federation namely Calcutta Port Shramik Janta Panchayat, National Union of Waterfront workers and Calcutta Port and Dock Workers Union were silent over this aspect. The Calcutta Port and Shore Mazdoor Union, however, advanced a different view on this and agreed with the Port Trust i.e. Rs. 34 was originally a roster off allowance to which the coal trimmers were not entitled to Rs. 34 as now demanded by Calcutta Port Shramik Union. Further the Trimming pay had already been revised in accordance with the recommendations of Shri Dave, the Arbitrator who were not getting roster off allowance like 'A' category workers. When the management categorically denied any logic for payment of Rs. 34 to coal trimmers not being covered under the present reference and any increase thereof the Calcutta Port Shramik Union continue to press for the increase of 20% of Rs. 34.

The other part of reference of "i(a)" is whether the coal trimmers are also eligible for such revision. This shows that the reference is limited only to examination of revision of Equation Allowance and not of Equation Allowance itself.

The statements filed by both sides i.e. the Port Trust and the Unions show that there was a revision of Equation Allowance payable to coal trimmers, when the same was revised in case of 'A' category workers since 1969. Therefore, any further revision in the Equation Allowance or part thereof that is to be allowed to 'A' category workers, should also be allowed to coal trimmers. I accordingly award that the coal trimmers should be paid Rs. 6.80 per month (i.e. 20% of Rs. 34) w.e.f. 1-1-80 which will be in addition to Rs. 21 per month which they are presently getting.

(ib) The Unions have contended that the Equation Allowance is a static element of pay of 'A' category workers and has been accepted as such by Port Trust. The bipartite settlement of October 80 shows that Rs. 34 was made a part of the Equation Allowance in respect of 'A' category workers, where they were employed prior to 15-9-79 or after 15-9-79. No difference was made on the basis of the date of employment of this category of workmen. As such the management should not differentiate between these two sets of workers in the matter of payment of equation allowance. The Unions further argued that a letter No. IB/VII D.III/112A/1591 dated 31-10-80 of the LA and IRO, Calcutta Port Trust has an enclosure and this letter should be studied alongwith its enclosures for the purpose of true import of it. The enclosures to the letter were two bipartite agreements between the Calcutta Port Trust on one hand and Calcutta Port Shramik Janta Panchayat and Calcutta Port Shramik Union on the other hand in the matter of their demand for the revision of Equation Allowance. The settlements dated 28-10-80 and 29-10-80 provide for payment of Rs. 20 per month as a personal allowance so as to bring parity in the static wage packet of Shore Workers of Calcutta Port Trust with that of Madras Port Trust and a settlement containing the details of the wage packet of both the ports were enclosed and that this personal allowance would be paid to all concerned workmen who were in receipt of Equation Allowance. While arriving at this static wage packet the roster off allowance of Rs. 34 was also included so as to reduce the liability of the Port Trust in this regard. Therefore, in all fairness the Port Trust should give Rs. 34+20% of Rs. 34 to the 'A' category workers recruited after 1-9-79 as well, their number being only 49. The Port Trust management has stated that the substitute payment for roster off day a separate allowance having its basis in the incentive tonnage scheme, 1961 and are paid only to the 'A' category workers recruited prior to 1-9-79 and, therefore, should not be confused with other allowances i.e. Equation Allowance and Personal Allowance. The 'A' category workers recruited after 1-9-79 as monthly paid workers and did not enjoy the benefit of roster off wages of Rs. 34 like their senior ones. They further denied that the Equation Allowance comprises of Equation Allowance and Personal Allowance. The allegation of the Union was that denial of Rs. 34 per month to 'A' category workers

recruited after 1-9-79 in the matter of payment of wages is a discrimination, is not correct as this was done on the basis of the settlement signed with the Unions. The management further stressed that the examination of the issue should be limited to the contents of the letter cited in the reference. Further, 'A' category workers recruited after 1-9-79 were recruited as monthly rated employees and therefore, they had different service conditions from their counter part who were recruited prior to 1-9-79. The management also drew my attention to two case laws, one between Hindustan Paper Corporation and its workmen (1985-IAB, IC 95, Calcutta High Court). In the said case the High Court held that intimation relating to termination of a settlement should be specific and spelt out. During the operation of the settlement, further reference of the dispute would be incompetent and the award passed in consequence thereof would be invalid. To this the Unions pointed out that this instant reference, arbitration was agreed to in pursuance to the agreement for further negotiation for revision of Equation Allowance/Personal Allowance under the Settlement dated 24-3-83. Therefore, there is no necessity for termination of any settlement and the case law cited is not relevant. The Port Trust did not sign any settlement after 1983 in which this reference was barred. The Port Trust also drew my attention to another case law between the workmen of Hindustan Teleprinters Limited, Madras and others Vrs. Hindustan Teleprinters Ltd. and another in the Madras High Court FIR Vol. 62, page 114 to 120. In the judgement dated 22-10-82 it was held that payment of conveyance allowance is at the discretion of the employer, the workmen cannot claim as a matter of right. The Union in their counter statement submitted that this clause has no relation to far it relates to reimbursement of expenses for running a conveyance and it is in the nature of fringe benefit, but their demand for equal amount of Equation Allowance is not a fringe benefit but a static wage element. One has to bear in mind that there is a difference between wage and fringe benefit specially like conveyance allowance. Both these elements are not always comparable, hence this case law is of no help to the port trust management.

I heard the parties at length. So long as Rs. 34 was being paid to 'A' category workers appointed prior to 1-9-79 in the form of roster off allowance, the 'A' category workers who were recruited after 1-9-79 had no claim to the same, because they had never enjoyed this roster off allowance having been recruited as monthly paid employees; but the port trust by agreeing to treat this as a component of Equation Allowance with a view to arrive at Rs. 75, completely changed its character. When other 'A' category workers got Rs. 75 as Equation Allowance under the bipartite settlement of October 80, the 'A' category workers recruited after 1-9-79 started getting less by Rs. 34 on this account when the Port Trust as well as the Unions equated the wage packet of the cargo handling workers of Calcutta Port Trust and Madras Port Trust. In view of the above I consider that 'A' category workers recruited after 1-1-79 should also get this static element and get Rs. 34 from the date of their respective appointment at the revised rate w.e.f. 1-1-1980 or later. They should also get 20% increase thereon w.e.f. 1-1-80, to avoid future anomaly in the wage pattern of 'A' category workers.

I award this reference accordingly.

Bhubaneswar,

Dated the 29th December, 1988.

S. N. MCHANTY, Regional Labour
Commissioner (Central) Bhubaneswar and
Arbitrator
[No. L-32013/286-D.IV(A)(I)(B)]

का.शा. 282—औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पत्तन न्यास के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में श्री एस. एन. मोहन्ती, क्षेत्रीय श्रमयुक्त के भुवनेश्वर के मध्यस्थ पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-89 को प्राप्त हुआ था।

S.O. 282.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Arbitration award of Shri S. N. Mohanty Regional Labour Commissioner (C), Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Port Trust and their workmen, which was received by the Central Government on the 6-1-89.

ANNEXURE

IN THE MATTER OF ARBITRATION UNDER SEC. 10A OF THE INDUSTRIAL DISPUTES ACT, 1947 RELATING TO THE REVISION OF EQUATION ALLOWANCE PAYABLE TO CATEGORY 'A' WORKERS AND COAL TRIMMERS.

Reference No. 2/86, 3/86 & 4/86

BEFORE SHRI S. N. MOHANTY, ARBITRATOR.

Representing the employers :

(Calcutta Port Trust, Calcutta)

1. Shri D. K. Mukherjee
Dy. Labour Adviser &
Industrial Relations Officer,
Calcutta Port Trust.
2. Shri Somnath Ghosh,
Officer on special duty (IR)
Calcutta Port Trust.

Representing the workers :

1. Shri K. K. Roy Ganguly,
Vice-President,
Calcutta Port & Shore Mazdoor
Union, Calcutta.
2. Shri Barbati Das,
General Secretary,
Calcutta Port Shramik Union,
Calcutta.
3. Shri Ranajit Nandy,
Joint General Secretary
Calcutta Port & Dock Workers
Union, Calcutta.
4. Shri Basas Mitra,
Vice-President,
National Union of Waterfront
Workers, Calcutta.
5. Shri Ganapati Jha,
General Secretary,
Calcutta Port Shramik Janata
Panchayat, Calcutta.
6. Shri S. N. Chakravorty,
Vice-President,
Calcutta Port Trust Workers
Union, Calcutta.

Under 3 separate agreements between the management of Calcutta Port Trust, Calcutta and their workmen represented by Calcutta Port Shramik Union, National Union of Waterfront Workers, Calcutta Port & Shore Mazdoor Union, Calcutta Port & Dock Workers Union signed on 22nd October, 1986, 1986, between Port Trust & Calcutta Port Shramik Janata Panchayat on the 1st August, 1986, and with Calcutta Port Trust Workers' Union on 2nd August, 1986 in terms of Sec. 10A of the Industrial Disputes Act, 1947 the dispute between them regarding upward revision of Equation-Allowance of category 'A' workers on roll as on 1-9-1979 and whether the coal trimmers are also eligible for such revision and whether such revision should also be paid to 'A' category workers recruited after 1-9-1979 were referred to my arbitration. The Government of India, Ministry of Labour in accordance with the provisions of sub-sec. (3) of Sec. 10A of the I.D. Act, 1947 ordered publication of the said 3 agreements vide their orders No. L-32013/2/86-D. IV(A) (I) (II) (III) dated 9-1-1987.

2. The specific matter in the dispute as referred for my arbitration are as follows :-

- (i) Whether upward revision by 20 per cent of the amount of Rs. 34/- paid to 'A' category workers

on roll as on 1-9-79 for the purpose of revision of Equation Allowance w.e.f. 1-1-80 is justified ?
If so, whether the coal trimmers who also got Equation Allowance be eligible for any such revision ?

- (ii) Whether the amount of Rs. 34/- per month paid to the 'A' category workers in terms of cl. 2 of the tripartite settlement dated 15-9-1979 should be admissible to 'A' category workers recruited after 1-9-1979, in the context of the Labour-Advisor & Industrial Relations Officer, Calcutta Port Trust's letter No. ID-VIII/112A/1591 dated 31-10-1980.

3. The parties to the dispute were requested vide letter dated 26-3-1987 to file their written statements of the case within 10 days from the date of receipt of the letter enclosing a copy thereof to other parties. The parties requested for time and finally submitted their written statement. A joint statement was submitted by the two unions namely Calcutta Port & Shramik Union & National Union of Waterfront Workers on 6-5-1987 endorsing a copy thereof to the other parties concerned. The Calcutta Port Trust has also submitted its written statement on the 10th June, 1987 endorsing a copy thereof to the parties concerned. Calcutta Port & Dock Workers Union submitted its written statement on 21st May, 1987 forwarding a copy thereof to the other parties. In the said statement they submitted that they fully agreed with the written statement on the issues jointly submitted by Calcutta Port Shramik Union & National Union of Waterfront Workers. The Calcutta Port & Shore Mazdoor Union, however, submitted its written statement on 22nd July, 1987 endorsing copies thereof to the other parties.

The Calcutta Port Shramik Janata Panchayat, however did not submit any written statement even though they sought time, from time to time for the purpose. In the end, Calcutta Port Shramik Janata Panchayat made a submission that they would not like to submit any written statement or any argument separately in the case and they supported the case as made-out by the other unions, namely Calcutta Port & Shore Mazdoor Union and Calcutta Port Shramik Union and that the agreements filed by those unions in their case may also be treated as the case of Calcutta Port Shramik Janata Panchayat.

Calcutta Port Trust Workers' Union submitted its written statement on 8-6-1987.

The case of this union was finally heard on the 22nd June, 1988 at Calcutta. The Union stated that the management had agreed in principle for an upward revision by 20 per cent of Rs. 34, the equation allowance paid to other categories of workmen of the Port Trust, which was, however, not paid to 'A' category workers and coal trimmers. The Union, however, could not substantiate their statement; the management also strongly refused it.

In view of the foregoing and as the 3 references concerning 6 unions are same and similar, I consider it expedient to deal it as one and dispose them in an analogous manner, so that there would not be contradictory Award.

The first hearing took place in Calcutta in 17th July, 1987 which was adjourned at the request of the parties. The 2nd hearing was held in Calcutta on 25th March, 1988 which was also adjourned. The hearings were held on 23rd June, 1988 and 24th June, 1988 at Calcutta when the Calcutta Port Shramik Union and Calcutta Port & Shore Mazdoor Union submitted their preliminary arguments on the 23rd June, 1988. The other two unions namely National Union of Waterfront Workers and Calcutta Port & Dock Workers Union also made their submissions. The hearings were adjourned to 15th/18th July, 1988 and were heard at Bhubaneswar. The Port Trust management submitted their arguments. The parties expressed their desire to submit further arguments and their counters at a later date and accordingly the hearing was adjourned to 19th August, 1988 at Calcutta. The case was again heard on 19th & 20th August, 1988 at Calcutta when the parties submitted their arguments and filed 3 connected documents and exchanged the copies of their arguments between themselves. The arguments were concluded on the 20th August, 1988.

All the 6 unions and the Port Trust separately extended the period of arbitration from time to time and finally till 31-12-1988.

As mentioned in para 2 above, all the three issues which submitted for my arbitration are now being examined herein

ad-seriatim in the light of the written statement, rejoinders, documents produced and arguments oral and written.

ISSUE NO. 1.

Whether upward revision by 20 per cent of the amount of Rs. 34 as paid to 'A' Category workers on roll as on 1-9-79 for the purpose of the revision of Equation allowance with effect from 1-1-80 payable to 'A' category workers is justified?

Shri K. K. Roy Ganguli of Calcutta Port and Shore Mazdoor Union spoke on this issue. He briefly narrated the history of this allowance and stated that 'A' category workers were getting equation allowance and personal Allowance at the rate of Rs. 21 and 20 respectively. The Cargo—handling 'A' category workers who were on roll as on 15-9-79 were also getting Rs. 34 as roster off wages in addition to the equation allowance and personal allowance; thus they were paid Rs. 21, Rs. 20, Rs. 34—Rs. 75. There was 20 per cent increase in equation allowance and personal allowance. According to clause 2 of the settlement dated 15-9-79 it had been agreed to pay at the rate of Rs. 34 per month in lieu of roster off day payment which is payable only to those category 'A' workers who were on the roll as on 1-9-79. The demand for equation allowance in Calcutta Port Trust arose when such allowance was introduced for the shore workers of Madras Port Trust. When equation allowance was increased in Madras Port Trust @Rs. 2.50 per day the concerned workman in Calcutta Port Trust also demanded for similar increase. A bipartite settlement was reached on 26th October, 1980 when some of the unions who were also parties to this arbitration in which this roster off allowance was taken into consideration and became a component of equation allowance and balance amount of Rs. 20 per month was allowed as personal allowance to make up the total Rs. 75 per month which was being enjoyed by the shore workers of Madras Port Trust. In view of the settlement of Port Trust, the Port Trust accepted the fact that Rs. 34 lost its character of 'roster of wages' and became a component of the equation allowance. In view of the above the 'A' category workers who were recruited prior to 1-9-79 should get an up-ward revision by 20 per cent of Rs. 34. This position was also confirmed by Calcutta Port Shramik Union and National Union of Water Front Workers and Calcutta Port and Dock Workers Union.

The Port Trust management in their argument stated that the reference to the Arbitrator is specific and the Arbitrator is bound by the terms of reference as spelled out in the notification. The reference in the notification speaks of the demand of the workmen for up-ward revision by 20 per cent of Rs. 34. Therefore, the scope is limited to the up-ward revision of this allowance of Rs. 34 w.e.f. 1-1-80 and not for further revision w.e.f. 1-1-84. According to the port trust Rs. 34 is not an Equation Allowance but a distinctly separate allowance and this being so there is no case for an up-ward revision of this allowance. The management further mentioned that the Equation Allowance was introduced in Calcutta Port Trust with a view to main parity between the gross wages of 'A' category Shore Workers/coal trimmers of port trust and Calcutta Dock Labour Board workers suo moto raising from Rs. 15 to Rs. 21 per month which was, however, not acceptable to the unions. A bipartite settlement was arrived at with Calcutta Port Shramik Panchayat and Calcutta Port Shramik Union wherein it was agreed that the Personal Allowance would be introduced and paid to the workers w.e.f. 1-1-74 @Rs. 20 per month per worker. This was arrived at by comparing the static wage component of the Shore Workers of Calcutta Port Trust and Shore Workers of Madras Port Trust. It was further argued that Rs. 34 was not Equation Allowance but distinctly a separate allowance. In accordance with the tripartite negotiations between the federations and Government of India, it was agreed that in Calcutta Port Trust there should be in general 20 per cent increase in this special allowance and. There was no scope for comparison of such revision with any other ports. The reference being "for the purpose of revision of Equation Allowance" and Rs. 34 not being the Equation Allowance by 20 per cent of Rs. 34 for the purpose of revision of Equation Allowance. The management and also agreed that the unions have agreed to drop the demand of Equation Allowance and hence any revision thereof is also should not be added but on a perusal of settlement dated 14-7-77 and 4-1-81 show that there was

provision for revision of special pay and allowance at local level. There is, therefore, no case for further upward revision of the allowance w.e.f. 1-1-84.

It is a fact that Rs. 34 was an allowance in lieu of roster off wages which was continued even under the settlement dated 15-9-79 for the 'A' category workers and became a static element in their wage structure and was made personnel to the 'A' category workers on roll as on 1-9-79. However, when the demand for having parity in the Equation Allowance of Rs. 75 per month was raised by the unions, the port trust took Rs. 34 (roster off wages—personal allowance) as a component of the same and agreed to make good the deficiency by payment of another Rs. 20 as Personal Allowance. This action of the management shows that they had accepted Rs. 34 as static wage component of the Shore workers of Calcutta Port and, therefore, the stand of Calcutta Port Trust that the up-ward revision of this amount is not covered by the reference "for the purpose of revision of Equation Allowance", because Rs. 34 had already been made a part and parcel of Equation Allowance and in the bilateral settlement dated 28th and 29th October, 1984 between the Port Trust and Calcutta Port Shramik Union and Calcutta Port Shramik Janata Panchayat. I, therefore, hold that the demand for up-ward revision of 20 per cent of Rs. 34 for the purpose of revision of Equation Allowance is very well covered within this reference. Now coming to the issue as to whether there is justification for a further up-ward revision of this amount by 20 per cent it is seen that the Calcutta Port Trust and the unions had jointly agreed for an increase of 20 per cent in this special allowance. The Equation Allowance is an allowance of which Rs. 34 was made a component and, therefore, it calls for a 20 per cent up-ward revision thereof to all the 'A' category workers who were on roll as on 6-9-79 w.e.f. 1-1-1980. I award accordingly.

Shri Parbati Das of Calcutta Port Shramik Union argued that the coal trimmers should also get Rs. 34 as difference in Equation Allowance which is being denied to them now. The Port Trust denied that liability on the ground that this is not covered by the present reference or they are not legally or morally entitled to this amount and the union, therefore, in the past amended this demand and claimed to only revision of the quantum. The other federations namely Calcutta Port Shramik Janta Panchayat, National Union of Waterfront Workers and Calcutta Port & Dock Workers Union were silent over this aspect. The Calcutta Port and Shore Mazdoor Union, however, advanced a different view on this and agreed with the Port Trust i.e. Rs. 34 was originally a roster off allowance to which the coal trimmers were not entitled to Rs. 34 as now demanded by Calcutta Port Shramik Union; Further the Trimming pay had already been revised in accordance with the recommendations of Shri Dave, the Arbitrator who were not getting roster off allowance like 'A' category workers. When the management categorically denied any logic for payment of Rs. 34 to coal trimmers not being covered under the present reference and any increase thereof the Calcutta Port Shramik Union continue to press for the increase of 20 per cent of Rs. 34.

The statements filed by both sides i.e. the Port Trust and trimmers are also eligible for such revision. This shows that the reference is limited only to examination of revision of Equation Allowance and not of Equation Allowance itself.

The statements filed by both sides i.e. the port trust and the unions show that there was a revision of Equation Allowance payable to coal trimmers, when the same was revised in case of 'A' category workers since 1969. Therefore, any further revision in the Equation Allowance or part thereof that is to be allowed to 'A' category workers should also be allowed to coal trimmers. I accordingly award that the coal trimmers should be paid Rs. 6.80 per month (i.e. 20 per cent of Rs. 34) w.e.f. 1-1-80 which will be in addition to Rs. 21 per month which they are presently getting.

(b) The unions have contended that the Equation Allowance is a static element of pay of 'A' category workers and has been accepted as such by port trust. The bipartite

settlement of October, 1980 shows that Rs. 34 was made a part of the Equation Allowance in respect of 'A' category workers, where they were employed prior to 15-9-79 or after 15-9-79. No difference was made on the basis of the date of employment of this category of workmen. As such the management should not differentiate between these two sets of workers in the matter of payment of equation allowance. The unions further argued that a letter No. IB/VIII. D. III/II2A/1591 dated 31-10-80 of the LA & IRO, Calcutta Port Trust has an enclosure and this letter should be studied alongwith its enclosures for the purpose of true import of it. The enclosures to the letter were two bipartite agreements between the Calcutta Port Trust on one hand and Calcutta Port Shramik Janta Panchayat and Calcutta Port Shramik Union on the other hand in the matter of their demand for the revision of Equation Allowance. The settlements dated 28-10-80 and 29-10-80 provide for payment of Rs. 20 per month as a personal allowance so as to bring parity in the static wage packet of Shore Workers of Calcutta Port Trust with that of Madras Port Trust and a settlement containing the details of the wage packet of both the ports were enclosed in that this personal allowance would be paid to all concerned workmen who were in receipt of Equation Allowance. While arriving at this static wage packet the roster off allowance of Rs. 34 was also included so as to reduce the liability of the Port Trust in this regard. Therefore, in all fairness the Port Trust should give Rs. 34—20 per cent of Rs. 34 to the 'A' category workers recruited after 1-9-79 as well, their number being only 49. The port trust management has stated that the substituted payment for roster off day a separate allowance having its basis in the Incentive Tonnage Scheme, 1961 and are paid only to the 'A' category workers recruited prior to 1-9-79 and, therefore, should not be confused with other allowances i.e. Equation Allowance and Personal Allowance. The 'A' category workers recruited after 1-9-79 as monthly paid workers and did not enjoy the benefit of roster off wages of Rs. 34 like their senior ones. They further denied that the Equation Allowance comprises of Equation Allowance and Personal Allowance. The allegation of the union was that denial of Rs. 34 per month to 'A' category workers recruited after 1-9-79 in the matter of payment of wages is a discrimination, is not correct as this was done on the basis of the settlement signed with the unions. The management further stressed that the examination of the issue should be limited to the contents of the letter cited in the reference. Further, 'A' category workers recruited after 1-9-79 were recruited as monthly rated employees and, therefore, they had different service conditions from their counter part who were recruited prior to 1-9-79. The management also drew my attention to two case laws, one between Hindustan Paper Corporation and its workmen (1985—Lab. IC 95, Calcutta High Court). In the said case the High Court held that intimation relating to termination of a settlement should be specific and spelt out. During the operation of the settlement, further reference of the dispute would be incompetent and the award passed in consequence thereof would be invalid. To this the unions pointed out that this instant reference, arbitration was agreed to in pursuance to the agreement for further negotiation for revision of Equation Allowance/Personal Allowance under the Settlement dated 24-3-83. Therefore, there is no necessity for termination of any settlement and the case law cited is not relevant. The Port Trust did not sign any settlement after 1983 in which this reference was barred. The Port Trust also drew my attention to another case law between the workmen of Hindustan Teleprinters Limited, Madras & others vrs. Hindustan Teleprinters Ltd. & another in the Madras High Court (FJR Vol. 62, page 114 to 120). In the judgement dated 22-10-82 it was held that payment of convenience allowance is at the discretion of the employer, the workmen cannot claim as a matter of right. The union in their counter statement submitted that this clause has no relation so far it relates to reimbursement of expenses for running a convenience and it is in the nature of fringe benefit, but their demand for equal amount of Equation Allowance is not a fringe benefit but a static wage element. One has to bear in mind that there is a difference between wage and fringe benefit specially like convenience allowance. Both these elements are not always comparable hence this case law is of no help to the port trust management.

I heard the parties at length. So long as Rs. 34 was being paid to 'A' category workers appointed prior to 1-9-79 in the form of roster off allowance, the 'A' category workers

who were recruited after 1-9-79, had no claim to the same because they had never enjoyed this roster off allowance, having been recruited as monthly paid employees; but the port trust by agreeing to treat this as a component of Equation Allowance with a view to arrive at Rs. 75, completely changed its character. When other 'A' category workers got Rs. 75 as Equation Allowance under the bipartite settlement of October, 1980, the 'A' category workers recruited after 1-9-79 started getting less by Rs. 34 on this account when the port trust as well as the unions equated the wage packet of the cargo handling workers of Calcutta Port Trust and Madras Port Trust. In view of the above I consider that 'A' category workers recruited after 1-1-79 should also get this static element and get Rs. 34 from the date of their respective appointment at the revised rate w.e.f. 1-1-1980 or later. They should also get 20 per cent increase thereon w.e.f. 1-1-80, to avoid future anomaly in the wage pattern of 'A' category workers.

I award this reference accordingly.
Bhubaneswar,

Dated the 29th December, 1988.

S. N. MOHANTY, Regional Labour Commissioner
(Central) Bhubaneswar
and Arbitrator.

[No. L-32013/2/86-D.IV(A)/(II)/(III(B))]
V. K. SHARMA, Desk Officer

नई दिल्ली, 19 जनवरी, 1989

का.मा. 283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, औद्योगिक ट्रिब्यूनल अहमदाबाद भारतीय स्टेट बैंक, अहमदाबाद के प्रबंधकों के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10 जनवरी, 1989 को प्राप्त हुआ था।

New Delhi, the 19th January, 1989

S.O. 283.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India, Ahmedabad and their workmen, which was received by the Central Government on the 10th January, 1989.

ANNEXURE

BEFORE SHRI G. S. BAROT, B. Com., LL.B., PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT AHMEDABAD

Reference (ITC) No. 10 of 1980

Adjudication.

BETWEEN

Management of State Bank of India, L.H.O., Bhadra,
Ahmedabad ...First Party.

AND

Their workmen ...Second Party,
In the matter of termination of services of Shri J. A.
Shah, Clerk.

APPEARANCES:

Shri G. N. Vahia, Advocate for the Bank; and
Shri P. S. Chari, Advocate for the workman.

AWARD

This is a reference made by the Government of India, Ministry of Labour, New Delhi, constituting as Presiding Officer Shri R. C. Israni, of the Industrial Tribunal with headquarters at Ahmedabad, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. The reference is made by the Central Government Order No. L-12012/169/79-D.IIA dt. 10-10-1980. The dispute which is referred for adjudication as stated in the Schedule to the order of reference is as follows:

"Whether the action of the management of State Bank of India, Local Head Office, Bhadra, Ahmedabad in terminating the services of Shri J. A. Shah, Clerk vide letter No. DC/56 dated 2nd February, 1979 is justified? If not, to what relief is the workman concerned entitled?"

The above industrial dispute has subsequently been referred for adjudication to me by the appropriate orders issued by the appropriate authorities in this behalf.

2. Shri J. A. Shah, the concerned workman herein has authorized Shri P. S. Chari, Advocate to plead his case and the State Bank of India, Local Head Office, Bhadra, Ahmedabad, hereinafter referred to as "the bank" has authorized Shri G. N. Vahia, Advocate to plead its case and both of them have argued before me in support of their respective case.

3. The case of the workman concerned is that he was a permanent employee of the bank and that his services were quite satisfactory. There was also no cause of any complaint regarding his work, conduct, sincerity and devotion of duty. That the bank vide its letter No. DC/56 dt. 2-2-79 terminated his services on the ground that he has voluntarily vacated the appointment. He, thereupon immediately approached the bank and informed that he has not vacated the appointment and requested the bank to reinstate him immediately. The bank did not pay any heed to his request and hence he approached with a letter dt. 20-2-79 addressed to the Regional Manager, State Bank of India, Local Head Office, Bhadra, Ahmedabad with a request to reinstate him with full back wages and continuity of service as the order passed against him virtually amounted to dismissal. The bank did not take any action thereon and therefore he was compelled to approach the Conciliation Officer appointed by the Government of India for intervention. The Conciliation Officer intervened in the matter but no settlement could be arrived at. A failure certificate was therefore submitted and the reference came to be made by the Government of India.

4. It is the case of the concerned workman that the impugned action of the bank in terminating his services vide letter dt. 2-2-79 is ex facie, illegal, invalid and inoperative in law. According to the workman concerned he was on sick leave. His case is that while working in the bank he suffered from a disease known as Tuberculosis (T.B.). The said disease reached the last stage and he had therefore to take treatment at various places. He was also treated by the doctor of the bank. As the said disease was out of control, the bank's doctor recommended that he should take medical treatment from Jaslok Hospital, Bombay. He had therefore taken medical treatment from Bombay also but as he could not recover he had taken the treatment from another expert at Jamnagar for couple of months; that he was compelled to take treatment from various doctors and for all these he had also produced medical certificates; that after all this treatment he was slightly alright and was thinging to report for duty but to his surprise he received a letter viz., dt. 2-2-79 from the Regional Manager, State Bank of India, Local Head Office, Bhadra, Ahmedabad terminating his services under the pretext viz., voluntarily abandonment of service. It is his say that he had not abandoned the service as alleged. It is also his say that the bank is fully aware that he was under constant medical treatment under various experts and there was no question of his leaving the job but he was on leave because of his ill health. It was hence submitted that the bank had no reason to presume that he had voluntarily vacated the appointment. He has also submitted that the impugned action taken by the bank is by way of victimization; that the action is mala fide, vindictive and in flagrant violation of the principles of natural justice. It is also submitted that the said order is illegal, invalid and inoperative in law in as much as no inquiry worth the name was conducted before dismissing him from the employment; that it is also in flagrant violation of mandatory provisions of S. 25(F) of the Industrial Disputes Act, 1947; that is also in violation of the provisions of various awards and settlement government the service conditions of the bank employees. It was hence submitted that the order passed against him be set aside and he be reinstated on his original post with full back wages and continuity of service and consequential benefits.

5. The bank has filed its written statement at ex. 3 wherein it has been submitted inter alia that the workman concerned was appointed as clerk-typist on 1-8-68 and lastly he was working in Region II at Ahmedabad Local Head Office of the bank; that he had applied for sick leave from 16-8-76 to 16-9-76 on medical grounds and the same was granted to him. Since then he had been asking for extension of leave and thereby he was absent from duty from 16-8-76. When he applied for leave for 3 months with effect from 5-12-76 vide his application of 7-12-76 he was advised by the bank vide its letter dt. 10-12-76 that he has been sanctioned 22 days sick leave from 5-12-1976 to 26-12-76 and the remaining leave for 2 months and 8 days from 27-12-76 would be treated as extra ordinary leave with loss of pay not accountable for increment and other benefits as he had no balance of any kind of leave to his credit. Despite this fact he once again applied for leave for 3 months enclosing there with the medical certificate dt. 4-3-77. He also similarly applied for extension of leave even thereafter. The bank had also written him letters advising him to report for duty but he had continued to be on leave sending reports and the medical certificates. He was also advised by the bank to report to the Civil Surgeon for thorough check up but he had not reported for duty and continued to remain on unauthorised leave as he had exhausted all kinds of leave to which he was eligible. Lastly he was also advised by Registered letter dt. 26-6-78 to report for duty. He was informed that he should report for duty within 7 days from the date of receipt of the letter failing which his name would be removed from the bank but to this letter also no heed was paid. It is therefore the case of the bank that under the circumstances aforesaid, the bank vide its Registered letter No. DC/56 dt. 2-2-79 called upon the workman concerned to report for duty to the Regional Manager within 10 days from the date of receipt of the said letter failing which it would be presumed that he had voluntarily vacated his appointment and that no further notice would be served on him in that regard. It was also mentioned in the said letter that he had remained on sick leave from 16-8-76 to 26-12-76, on extra ordinary leave on loss of pay from 27-12-76 to 4-3-77 and unauthorisedly absent from 5-3-77 onwards. The allegation made by the workman concerned that the services of the workman concerned were terminated vide letter dt. 2-2-79 is baseless. On the contrary he was given ample opportunity to report for duty which he has not availed of. The bank under the above circumstances presumed that he has voluntarily vacated his appointed.

6. As regards the illness of the workman concerned, he was taking treatment from doctors. It was however denied that the bank's doctor had advised the workman concerned to take treatment from Jaslok hospital. It was also denied that the bank had terminated his service under the guise of abandonment of service.

7. I have heard Shri Chari for the workman concerned who argued that this is a case of dismissal and not a case of voluntary abandonment of service. Even if this is a case of voluntary abandonment of service the bank was required to hold an inquiry which admittedly has not been done. Shri Chari also argued that provisions of S. 25(F) of the Act would be attracted in this case in as much as conditions precedent contained in S. 25(F) have not been followed and the order passed against the workman concerned would be void ab initio and he would be entitled to reinstatement with full back wages. He also argued that there is ample oral as well as documentary evidence which shows that this is not a case of voluntarily abandonment of service but the action taken by the bank is penal one. As against this Shri Vahia for the bank argued that the bank had so often written several letters asking the workman concerned to report for quite a long period of about 3 years, presumed was also informed that if he did not report for duty, his name would be struck off from the establishment and ultimately the bank, as the workman concerned had not reported for quite a long period of about 3 years, presumed that the workman concerned had voluntarily left his appointment. Under these circumstances it was contended by Shri Vahia that the order passed was legal and proper. Shri Vahia also argued that the bank had offered the workman concerned reinstatement on his original post but the attitude of the workman concerned was adamant and therefore this is not a fit case where full back wages should be granted.

8. I have heard the rival contentions of both the parties. It is the say of the bank that it had two courses open when one remains on unauthorised absence from duty viz., it to treat the unauthorized absence as voluntary abandonment of employment provided the concerned employee has been given reasonable opportunity of report for duty and secondly, to proceed against the said employee by way of departmental inquiry. Thus the employer has two courses open and he can choose either. In the instant case, the bank has preferred to treat this as voluntary abandonment of employment and therefore the action of the bank was quite legal and proper.

9. It was submitted by the bank that S. 25(F) of the I.D. Act is not applicable to the facts of the present case in as much as there is no question of retrenchment involved herein.

10. It was also submitted by the bank that the workman concerned did not prefer to avail of the free medical services provided by the bank which shows that the continuous unauthorized absence from duty was for other reasons and not merely on account of his said ailment. Under the law of master and servant, an employee may be deemed to have abandoned his service if there is an intention to abandon the employment and in the instant case the intention may be inferred from his conduct such as prolonged absence from service. For all these reasons it was submitted that the demand made in the reference be rejected.

11. On behalf of the bank relevant documents have been produced on record. The bank has also examined 3 witnesses to prove its case that the workman concerned had voluntarily abandoned his service and the action taken by the bank was legal and proper. On behalf of the bank one Shri Bhagwandas who was Administrative Officer at the relevant time was examined at ex. 24. He has stated that he was looking after the work of granting leave to the staff. He was the person who used to sanction the leave. He knew the workman concerned as it was he who had sanctioned the leave to the workman concerned. He has then stated that the workman concerned had asked for leave from 28/6 to 12/7 and he was due on 13/7 but he had not reported. He has also stated that with the above said leave application, medical certificate was annexed. The witness has thereafter stated that the workman concerned had asked for leave continuously but all the time doctor's certificate were enclosed to the reports. At last he was informed by letter dt. 3-6-78 that if he did not report for work departmental action would be taken against him. But in spite of this he did not report. He was therefore given another opportunity and informed by letter dt. 23-8-78 informing him that his name would be removed if he did not report for duty. In his cross examination this witness had admitted that he cannot say without perusing the record whether any inquiry was held against the workman concerned or not in this behalf. He also admitted that he had no idea about the service rules contained in the award. He also stated that he did not know about the contents of the written statement. This witness also admitted that Shops & Establishment Act has been made applicable to this bank and further stated that he did not know whether any notice required under the provisions of this Act was given to the workman or not. Lastly he stated that it appears from the correspondence that the workman concerned was discharged from service as he did not report for work in spite of repeated requests made in that behalf and therefore his absence has been treated as unauthorized absence. However he cannot say whether the workman concerned was discharged for remaining absent on unauthorized leave or not.

12. From the evidence of this witness it clearly appears that the workman concerned was on sick leave. As he was not well he went on applying for further leave and also practically all the times he had also annexed with the report the doctor's certificate. The witness has also deposed about the lengthy correspondence between the bank and the workman concerned which reveals that this is not a case of remaining absent without informing the bank. On the contrary this is a case where the workman concerned had so often applied for sick leave or any other leave available to him because of his sickness. It also appears that the workman concerned had taken treatment from

various doctors for his disease and he was on leave only because of his sickness and on no other ground. It is true that in the written statement p. 7 the bank had alleged that the conduct of the workman concerned shows beyond doubt that his continuous unauthorized absence from duty was for other reason and not merely because of his ailment. But the bank has not been able to prove that it was for any other reason except on the ground of sickness.

13. In support of its case the bank also examined one Shri Bhanuprasad at ex. 56. In his deposition he has stated that on 31-1-81 he was working as Regional Manager. He has admitted the contents of the written statement. He has then deposed about the history of leave reports made by the workman concerned and admitted that the workman concerned had applied for medical leave along with medical certificates. He has also deposed that there is one certificate dt. 14-8-76 given by the bank's doctor on the basis of which he was sanctioned leave. Thereafter another leave report was made with the doctor's certificate which was also granted. He has also deposed that similarly he had applied for sick leave with doctor's certificate so often and lastly he was informed to report for duty as informed in the said letter but he had not reported as asked but continued to be on sick leave. Lastly the bank wrote one letter dt. 2-2-79. This witness has also stated that the bank believed that the workman concerned was not reporting for duty because of his sickness. The witness further stated that after the reference was made to this Tribunal there was one proposal for settlement but the workman concerned did not agree to the terms of the settlement. He also admitted that in the letter dt. 3-6-78 it was stated that disciplinary action would be taken against him but no such action was taken according to this witness. He has then stated that this was written only because the workman concerned was on unauthorized leave. He has also stated that no action has been taken against the workman concerned as per the service rules viz., Awards. He also made it clear that he did not know on which date the name of the workman concerned was removed from the establishment. He also admitted that the Shops & Establishment Act is applicable to this Bank but clarified that this was not a case of termination of service of the workman concerned. There was no question of giving any notice under the provisions of the Shops & Establishment Act. From the evidence of this witness it appears clearly, as admitted by this witness, that the bank believed throughout that the workman concerned was on leave because of his sickness. It also appears from the deposition of this witness that the workman concerned used to apply for leave with medical certificate. It also appears that the bank has treated this case as one of unauthorized absence and ultimately presumed that the workman concerned was not interested in the job and had therefore voluntarily abandoned the appointment.

14. The bank also examined at ex. 58 one Shri Nagarlal who was the officer in charge in the personnel department of the bank. His work is of a liaison officer between the bank and its advocate. This witness has deposed about the talk of settlement. According to this witness he had presented a draft of the settlement before the Tribunal on 12-3-85 but the workman concerned did not agree to the terms of the said settlement. In the cross-examination this witness had admitted that there was an offer made for reinstatement of the workman concerned. He clearly admitted that he knew nothing except the production of this draft settlement before the Tribunal.

15. It is true that this is a hard case where the workman is without the job for the last many years. The reason for remaining on leave clearly appears to be quite genuine. He was suffering from T. B. and as the evidence shows he was throughout taking medical treatment from various doctors including Bombay, Jamnagar and at other places. He used to apply for sick leave along with the doctor's certificate. This is not a disputed fact. In spite of this conduct of the workman concerned the bank had presumed that the workman concerned has abandoned his appointment or so to say he has no interest in the job any more does not get support from either the oral evidence or the documentary evidence. The first two witnesses of the bank clearly deposed that the workman concerned used to apply for sick leave along with medical certificates. The documentary evidence also supports the

said fact. This clearly means that the workman concerned was suffering from T. B. which is a disease when one may be moving from one place to another but he had to take continuous treatment which the workman concerned was taking and as it was not possible for him to resume work he had not reported for work and applied for leave with medical certificates.

16. The question which falls for determination herein is whether the action of the bank under these circumstances can be said to be bona fide or legal and proper when this is a clear case of sickness and only because of that reason the workman concerned used to be on leave. The bank knew very well from the reports and certificates sent to it that the workman concerned was ailing. It is therefore not understood how the bank presumed that the workman concerned had abandoned his appointment or that he was not interested in the job. If the workman concerned was not interested in the job certainly he would have resigned and would not have taken the trouble of applying for sick leave after obtaining doctor's certificates. As submitted by the bank it may be that the bank's doctor may not have advised him to take treatment from the Jaslok hospital. The doctor's certificate does say that the workman concerned desired to get treatment from Jaslok hospital. It may be that after taking advice the workman concerned might have thought it proper to take treatment only for some time but as stated by the workman concerned himself no improvement was visible and therefore he had preferred to take treatment at Jamnagar. However, the fact remains that at one or the other place he did take treatment for the disease and he was on leave only for that reason and no other reason as alleged by the bank. When there is a clear case of ailment and the reasons for taking leave is only that I do not understand how any other presumption can be drawn as has been done in the instant case. I am therefore clearly of the opinion that the workman concerned was on genuine leave and there was no intention on the part of the workman concerned to leave the job and this is not the case of abandonment of service. In my view this is a case of termination of service and would amount to retrenchment u/s. 2(o)(o) of the I.D. Act.

17. Provisions of S. 25(F) are mandatory so to say conditions prescribed therein can be said to be pre-conditions and unless the conditions mentioned therein are satisfied the order of termination would be void ab initio and would be inoperative. In my view this is a case of retrenchment also which cannot be said to be legal or proper and therefore the workman concerned is entitled to be reinstated on his original post etc. and other consequential benefits. The order passed by the bank herein against the workman concerned would also be illegal in as much as even if it is taken as a case of abandonment of appointment, it was incumbent on the part of the bank to hold an inquiry against the workman concerned which admittedly has not been done in the instant case. On behalf of the workman concerned reliance was placed on the case of Gaurishanker Vishwakarma vs. Eagle Spring Industries (Private) Ltd., and others reported in 1988-1 L.L.N. p. 252. It is a case decided by the High Court of Bombay wherein Their Lordships have observed as under at p. 260 :

"Their case is that the petitioner workman had abandoned the service by refusing to come and to resume the work. It is difficult to accept this case. It is now well settled that even in the case of the abandonment of service, the employer has to give a notice to the workman calling upon him to resume his duty and also to hold an enquiry before terminating his service on that ground. In the present case the employer has done neither. It was for the employer to prove that the workman had abandoned the service."

As the evidence shows in the instant case it is not possible to come to a conclusion that the workman concerned had abandoned his service. On the contrary the documentary evidence produced proves that the workman concerned had no intention to leave the job but he had a clear cut intention to work. The certificates produced by the workman concerned along with the sick leave report have not been disbelieved by the bank authorities and there is also no reason to disbelieve the same by the Tribunal. In the circumstances

of this case it does not appear to be necessary to go into the provisions of breach of S. 66 of the Shops & Establishment Act when this is not a case of abandonment of service. In my view this is a case where the bank has taken a penal action against the workman concerned for unauthorised leave for which no inquiry has been held nor any request in that behalf was made before the Tribunal. This is also a case which requires an inquiry to be held even if it was a case of abandonment of service. It was required of the bank to give the workman concerned a notice calling upon him to resume his duty and also to hold an inquiry before terminating his service on that ground. In the instant case notice a letter to resume was given but admittedly no inquiry has been held nor any request in that behalf was also made. Therefore, the order passed against the workman concerned would be illegal and inoperative against him. There is also nothing to show that the bank has invoked any provisions of the Award which empowers the bank to dispense with the services in the manner in which it has been done. In my view therefore this is a fit case where the order of termination dt. 2-2-79 passed against the workman concerned deserves to be set aside and he be reinstated on his original post with all consequential benefits.

18. Coming to the question of settlement for which the bank examined one Shri Nagarlal Trivedi at ex. 58 who has deposed about the settlement and admitted that the workman concerned was offered reinstatement but he had not agreed to the terms of the said settlement because there was nothing about back wages. It is true that an attempt for settlement was made by this Tribunal in as much as going from one court to other takes quite a long time and ultimately the purpose is frustrated. There was little response from the bank also and the bank was prepared to reinstate the workman concerned on his original post but it was not prepared to pay anything by way of back wages etc. and therefore the settlement could not be arrived at in the matter. However, the fact remains that there is no settlement in the matter and the case has been adjudicated upon on its merits. As held above this is not a case of abandonment of service the bank was bound to hold an inquiry which admittedly it has not been done nor any request was made before this Tribunal to hold an inquiry before this Tribunal.

19. Coming now to the question of back wages, the bank has tried to bring on record that the workman concerned was gainfully employed elsewhere. For this the bank has produced at ex. 61 one letter dt. 22-4-83 from the Deputy Commissioner of Police, Special Branch, Ahmedabad city which shows that the workman concerned had applied for recognition as authorised travel agents with the Chief Passport Office, New Delhi. In this letter the Deputy Commissioner of Police had inquired from the bank as to whether the workman concerned was forcibly asked to resign etc. It appears from the endorsement made on this letter that the bank had replied that since the workman concerned had served the bank from 1968 to 1976 it had no record with it. Thus it appears that the bank had not been able to show anything that the workman concerned was gainfully employed elsewhere. On the contrary it is the case of the workman concerned that he was sick and he has not been able to serve anywhere. In my view therefore this is a case where normal rule of reinstatement with full back wages would be applicable. In the aforesaid circumstances the State Bank of India, L.H.O. Bhadra, Ahmedabad is hereby directed to reinstate Shri J. A. Shah, the workman concerned, on his original post with full back wages and other consequential benefits from the date of the termination order till the date he is reinstated. The arrears becoming due to the workman concerned under this award would be paid to him within three months from the date of receipt of this award by the bank. The bank is also directed to pay to the workman concerned Rs. 300 by way of costs.

Dated the 31st December, 1988.

Ahmedabad,

G. S. BAROT, Presiding Officer
[No. L-12012/169/79-D.II(A)/III(A)]
P. V. SREEDHARAN, Desk Officer

नई दिल्ली, 19 जनवरी, 1989

का.प्रा. 284.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, हीराकुड, जि. सम्बलपुर के प्रबन्धकों के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, समुबंध में निरिद्ध औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-1-89 को प्राप्त हुआ था।

New Delhi, the 19th January, 1989

S.O. 284.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Hirakud, Distt. Sambalpur and their workmen, which was received by the Central Government on the 9th January, 1989.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Industrial Dispute Case No. 11/88 (Central)
Bhubaneswar, the 9th December, 1988

BETWEEN

The Management of Food Corporation of India,
Hirakud. First Party-Management.

Vrs.

Their workman Sri K. V. Senudu, C/o Sri N. Baskar
Rao, H. T. C., Ticket Collector Office, Jharsuguda,
Railway Station, Dist. Sambalpur Second Party-
Workman.

APPEARANCES :

Sri B. K. Sarkar, Deputy Manager—For the First Party-
Management.

Sri K. V. Senudu The second party-workman, himself.

AWARD

1. The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by Section 10(1)(d) and Section 10 (2-A) of the Industrial Disputes Act, 1947 (14 of 1947) by their Orders Nos. L-42012/27/87-D.II (B) and L-42012/117/87-D. II(B) dated 16th March, 1988 have referred the following dispute between the Management of the Food Corporation of India, Hirakud Dist. Sambalpur and their workman for adjudication :—

"Whether the action of the Management of Food Corporation of India, Hirakud, Dist. Sambalpur in terminating Sri K. V. Senudu, Watchman from service with effect from 13-12-85 is legal/justified? If not, to what relief the workman concerned is entitled and from what date?"

2. The Food Corporation of India has a Food Storage Depot at Hirakud. It had a rice mill close to the said Depot known as Modern Rice Mill, Hirakud. The second party-workman Sri K. V. Senudu worked as a Watchman in the said rice mill on daily wage basis since 18-4-1981. He continued to work there until 13-12-85 when his services were discontinued with on account of alleged closure of the said rice mill by the Food Corporation of India.

3. It is the case of the second party-workman that though he worked as a Watchman continuously from 18-4-81 till 13-12-1985 he was illegally retrenched from service on that day without compliance of the provisions of Section 25-F of the Industrial Disputes Act. The workman also contended that having completed employment in the modern rice mill for 240 days prior to his disengagement, his services should have been regularised but instead he was thrown out of employment illegally.

4. The case of the First Party-Management, as would appear from its written statement filed in this proceeding, is

that the second party-workman was engaged by the F.C.I. Hirakud in the Modern Rice Mill on daily wage and 'no work no pay' basis with effect from 18-4-1981 and as such he was not entitled to any notice or any compensation prior to his disengagement. It was also stated in the said written statement that the Modern Rice Mill was closed down on 26-8-1985 following a policy decision received from the F.C.I. headquarters, New Delhi and therefore, there was no question of the second party-workman to continue in service. As no work was available for him, he left his place of duty at his own will and that it was not a case of retrenchment from service with effect from 13-12-1985. In paragraph 8 of the written statement it was stated that during the conciliation proceeding in respect of this dispute the First Party offered compensation to the second party-workman and also his full back wages for the period of his forced idleness but the workman refused to sign the settlement and demanded re-employment in the job he was doing or any alternative job. On these pleas, the First Party resisted the claim of the second party.

5. On these pleadings, the following issues were framed :—
ISSUES

- (1) If the second party was illegally retrenched from service with effect from 13-12-1985 by the First Party-Management or he abandoned his employment of his own accord with effect from 26-8-85? It retrenched, whether such retrenchment was legal and/or justified?
- (2) If there was closure of the Modern Rice Mill, Hirakud with effect from 26-8-1985 as alleged by the First Party-Management?
- (3) To what relief, if any, the second party-workman is entitled?

FINDINGS

6. Issue No. 1.—This issue relates to the question as to whether the second party was illegally retrenched from service with effect from 13-12-1985 as alleged by him or he voluntarily abandoned his employment of his own accord with effect from 26-8-1985 and the further question as if he was retrenched, whether such retrenchment was legal and/or justified. In this connection, I may refer to the written statement filed by the First Party. In paragraph-1 it is stated that the second party, namely Sri K. V. Senudu was engaged in the Modern Rice Mill as a Watchman on daily wage basis with effect from 18-4-1981. The First Party also proved a statement Ext. A giving details of engagement of casual watchman including the second party-workman Sri K. V. Senudu. It appears from that statement Ext. A that in the year 1981 the second party-workman was employed in the Modern Rice Mill for 212 days and during the years 1982, 1983, 1984 and 1985 he was engaged respectively for 356 days, 350 days, 359 days and 242 days. In paragraph-4 of the written statement it was stated that the establishment of the Modern Rice Mill, Hirakud was closed down from 26-8-1985 following a policy decision and in view of such closure no work was available for the second party-workman and he left his place of duty at his own will. In paragraph 5, it was stated that since the second party-workman was engaged verbally on daily wage basis, it was not required, for the First Party to serve any retrenchment order on him. In paragraphs 6 and 7 it was pleaded that since the second party-workman was engaged on "no work no pay" basis, it was not necessary for the Management to serve any retrenchment notice on him or to comply with the requirements of Section 25-F and Section 25-G of the Industrial Disputes Act.

The workman examined himself and stated on oath that from 18-4-1981 he worked in the Modern Rice Mill as a casual watchman and from 13-12-1985 he was refused employment. He denied the assertion of the First Party that the Modern Rice Mill closed down on 26-8-1985 and thereafter he did not come to work of his own accord. He also denied the assertion that he was not retrenched by the Management on 13-12-1985.

The Management's plea in this regard completely falls to the ground in view of the averments it has made in its written statement, and in view of the statement which it has filed as per Ext. A. Ext. A shows that the second party-workman

was engaged till December, 1985 and was paid wages. If the Modern Rice Mill was closed down on 26-8-1985 and the second party-workman left the place of work voluntarily, where was the question of paying wages to him till December, 1985. No evidence has been adduced on the side of the Management to explain this circumstance. As would be seen from Ext. A, the details of engagement of the casual watchman including the second party-workman he was shown present for 12 days in the month of December and was paid wages amounting to Rs 136. This fits in with the case of the second party-workman that he was refused employment only with effect from 13-12-1985 and not that the Modern Rice Mill was closed down on 26-8-1985 and he abandoned his employment.

7. The pleadings, particularly, the facts stated in the written statement of the First Party, considered alongwith Ext. A and the evidence of the workman clearly goes to show that the second party-workman was retrenched with effect from 13-12-1985 and at the time of retrenchment, there has been no compliance of provisions of Section 25-F of the Industrial Disputes Act.

In the circumstances, I would hold that the retrenchment of the second party-workman with effect from 13-12-1985 was illegal and unjustified.

9. Issue No. 2—In view of the findings recorded above, this issue does not arise for separate consideration. Closure of the Modern Rice Mill, as a fact, with effect from 26-8-1985 also has not been proved by any evidence. In the circumstance, I would hold that there was no closure of the Modern Rice Mill within the meaning of Section 25-FFF with effect from 26-8-1985.

10. Issue No. 3—In view of the findings recorded above, I would hold that the second party-workman is entitled to the normal relief of reinstatement with full back wages. If however the second party-workman has become surplus then they may bring about his retrenchment after following the appropriate procedure specified in Section 25-F of the Industrial Disputes Act.

11. The reference is answered accordingly.

S. K. MISRA, Presiding Officer
[No. L-42012/117/87-D.II (B)]

का.प्र. 285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, हीराकुड, जिला सम्बलपुर के प्रबन्धकों के सम्बद्ध दिव्योक्तों और उनके कर्मचारियों के बीच, प्रमुख में निम्नलिखित औद्योगिक विवाद में औद्योगिक प्रतिक्रिया, भुवनेश्वर के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-1-89 को प्राप्त हुआ था।

S.O. 285.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Hirakud, Distt. Sambalpur and their workmen, which was received by the Central Government on the 9th January, 1989.

ANNEXURE INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

Industrial Dispute Case No. 15/88 (Central)
Dated, Bhubaneswar, the 9th December, 1988

BETWEEN

The Management of Food Corporation of India, Hirakud.
.....First Party—Management.

(Vrs.)

Their workman Sri Gopinath Maharana,
C/o Sri Radhmani Maharana, Vill-Jhankarpura,
P.O. Hirakud, Distt. Sambalpur.

.....Second Party—Workman.

APPEARANCES:

Sri U. Raman Kutty, Deputy Manager (General)
For the First Party—Management.
Sri Gopinath Maharana.....The workman himself.

AWARD

1. The Government of India in the Ministry of Labour in exercise of powers conferred upon them by Section 10(1)(d) and Section 10(2-A) of the Industrial Disputes Act, 1947 (14 of 1947) by their Order No. L-42012/118/87-D.II(B) dated 28th March, 1988 have referred the following dispute between the Management of the Food Corporation of India, Hirakud, Dist. Sambalpur and their workman for adjudication:—

“Whether the action of the management of Food Corporation of India, Hirakud, Dist. Sambalpur in terminating the services of Sri Gopinath Maharana, Watchman with effect from 13-12-85 is legal and justified? If not, to what relief the workman is entitled to?”

2. The Food Corporation of India has a Food Storage Depot at Hirakud. It had a rice mill close to the said depot known as Modern Rice Mill, Hirakud. The second party-workman Sri Gopinath Maharana worked as a Watchman in the said rice mill on daily wage basis since 27-11-1979. He continued to work there until 13-12-85 when his services were dispensed with on account of alleged closure of the said rice mill by the Food Corporation of India.

3. It is the case of the second party—workman that though he worked as a Watchman continuously from 27-11-79 till 13-12-1985 he was illegally retrenched from service on that day without compliance of the provisions of Section 25-F of the Industrial Disputes Act. The workman also contended that having completed employment in the Modern Rice Mills for 240 days prior to his disengagement, his services should have been regularised but instead he was thrown out of employment illegally.

4. The case of the First Party—Management, as would appear from its written statement filed in this proceeding, is that the second party—workman was engaged by the F.C.I. Hirakud in the Modern Rice Mill on daily wage and “no work no pay” basis with effect from 27-11-1979 and as such he was not entitled to any notice or any compensation prior to his disengagement. It was also stated in the said written statement that the Modern Rice Mill was closed down on 26-8-1985 following a policy decision received from the F.C.I. headquarters, New Delhi and therefore, there was no question of the second party—workman to continue in service. As no work was available for him, he left his place of duty at his own will and that it was not a case of retrenchment from service with effect from 13-12-1985. In paragraph 8 of the written statement it was stated that during the conciliation proceeding in respect of this dispute the First Party offered compensation to the second party—workman and also his full back wages for the period of his forced idleness but the workman refused to sign the settlement and demanded re-employment in the job he was doing or any alternative job. On these pleas, the First Party resisted the claim of the second party.

5. On these pleadings, the following issues were framed:—

ISSUES

- (1) If the second party was illegally retrenched from service with effect from 13-12-1985 by the First Party—Management or he abandoned his employment of his own accord with effect from 26-8-1985? If retrenched, whether such retrenchment was legal and/or justified?
- (2) If there was closure of the modern rice mill, Hirakud with effect from 26-8-1985 as alleged by the First Party—Management?
- (3) To what relief, if any, the second party—workman is entitled

FINDINGS

6. Issue No. 1:—This issue relates to the question as to whether the second party was illegally retrenched from service

with effect from 13-12-1985 as alleged by him or he voluntarily abandoned his employment of his own accord with effect from 26-8-1985 and the further question is, if he was retrenched, whether such retrenchment was legal and/or justified. In this connection, I may refer to the written statement filed by the First Party. In paragraph 1 it is stated that the second party, namely Sri Gopinath Maharana was engaged in the Modern Rice Mill as a Watchman on daily wage basis with effect from 27-11-1979. The First Party also proved a statement Ext. A giving details of engagement of casual watchmen including the second party—workman Sri Gopinath Maharana. It appears from that statement Ext. A that in the year 1979 the second party—workman was employed in the Modern Rice Mill for 18 days and during the years 1980, 1981, 1982, 1983, 1984 and 1985 he was engaged respectively for 167 days, 290 days, 293 days, 362 days, 365 days and 342 days. In paragraph 4 of the written statement it was stated that the establishment of the Modern Rice Mill, Hirakud was closed down from 26-8-1985 following a policy decision and in view of such closure no work was available for the second party—workman and he left his place of duty at his own will. In paragraph 5, it was stated that since the second party—workman was engaged verbally on daily wage basis, it was not required of the First Party to issue any retrenchment order on him. In paragraphs 6 and 7 it was pleaded that since the second party—workman was engaged on "no work no pay" basis, it was not necessary for the Management to serve any retrenchment notice on him or to comply with the requirements of Section 25-F and Section 25-G of the Industrial Disputes Act.

The workman examined himself and stated on oath that from 27-11-1979 he worked in the Modern Rice Mill as a casual watchman and from 13-12-1985 he was refused employment. He denied the assertion of the First Party that the Modern Rice Mill closed down on 26-8-1985 and thereafter he did not come to work of his own accord. He also denied the assertion that he was not retrenched by the Management on 13-12-1985.

The Management's plea in this regard completely falls to the ground in view of the averments it has made in its written statement and in view of the statement which it has filed as per Ext. A. Ext. A shows that the second party workman was engaged till December, 1985 and was paid wages. If the Modern Rice Mill was closed down on 26-8-85 and the second party—workman left the place of work vol-

untarily, where was the question of paying wages to him till December, 1985. No evidence has been adduced on the side of the Management to explain this circumstance. As would be seen from Ext. A, the details of engagement of the casual watchmen including the second party—workman, he was shown present for 12 days in the month of December and was paid wages amounting to Rs. 119. This fits in with the case of the second party—workman that he was refused employment only with effect from 13-12-1985 and not that the Modern Rice Mill was closed down on 26-8-1985 and he abandoned his employment.

7. The pleadings, particularly, the facts stated in the written statement of the First Party considered alongwith Ext. A and the evidence of the workman clearly go to show that the second party—workman was retrenched with effect from 13-12-1985 and at the time of retrenchment, there has been no compliance of the provisions of Section 25-F of the Industrial Disputes Act.

8. In the circumstance, I would hold that the retrenchment of the second party—workman with effect from 3-12-1985 was illegal and unjustified.

9. Issue No. 2:—In view of the findings recorded above, this issue does not arise for separate consideration. Closure of the Modern Rice Mill, as a fact, with effect from 26-8-1985 also has not been proved by any evidence. In the circumstance, I would hold that there was no closure of the Modern Rice Mill within the meaning of Section 25-FFF with effect from 26-8-1985.

10. Issue No. 3:—In view of the findings recorded above, I would hold that the second party—workman is entitled to the normal relief of reinstatement with full back wages. If, however, the second party—workman has become surplus then they may bring about his retrenchment after following the appropriate procedure specified in Section 25-F of the Industrial Disputes Act.

11. The reference is answered accordingly.

S: K. MISRA, Presiding Officer

[No. I-42012/118/87-D.II(B)]

R. K. GUPTA, Desk Officer

